

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

RALPH S. JANVEY, IN HIS CAPACITY AS §
COURT-APPOINTED RECEIVER FOR THE §
STANFORD INTERNATIONAL BANK, LTD., §
ET AL., §

Plaintiff,

V.

Case No. 3:15-CV-0401-N-BG

GMAG LLC, MAGNESS SECURITIES LLC,
GARY D. MAGNESS, and MANGO FIVE
FAMILY, INC., IN ITS CAPACITY AS TRUSTEE
FOR THE GARY D. MAGNESS IRREVOCABLE
TRUST,

Defendants.

**APPENDIX IN SUPPORT OF RECEIVER’S RENEWED MOTION
FOR ENTRY OF JUDGMENT AS A MATTER OF LAW**

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Dated: October 12, 2017

Respectfully submitted,

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CERTIFICATE OF SERVICE

On October 12, 2017, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court, Northern District of Texas, using the electronic case filing system of the Court. I hereby certify that I will serve all parties, through their counsel of record, electronically, or by other means authorized by the Court or the Federal Rules of Civil Procedure.

/s/ Kevin M. Sadler
Kevin M. Sadler

APPENDIX A

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
 DALLAS DIVISION

3 RALPH S. JANVEY, IN HIS (CAUSE NO. 3:15-CV-401-N
4 CAPACITY AS COURT-APPOINTED)
5 RECEIVER FOR THE STANFORD (
6 INTERNATIONAL BANK, LTD.,)
7 et al., (
8 Plaintiff,)
9 (
10 vs.)
11 (
12 GMAG LLC, MAGNESS SECURITIES)
13 LLC, GARY D. MAGNESS, and (
14 MANGO FIVE FAMILY, INC., IN)
15 ITS CAPACITY AS TRUSTEE FOR (
16 THE GARY D. MAGNESS IRREVOCABLE) DALLAS, TEXAS
17 TRUST, (
18 Defendants. (
19 JANUARY 5, 2017
20 10:00 A.M.

21 PRETRIAL CONFERENCE

22 BEFORE THE HONORABLE DAVID C. GODBEY
23 UNITED STATES DISTRICT JUDGE

24 SHAWN M. McROBERTS, RMR, CRR
25 1100 COMMERCE STREET, RM. 1654
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1 THE COURT: Be seated.

2 Good morning. How's everyone?

3 MR. SADLER: Very well, thank you. And yourself?

4 THE COURT: Pretty good. I hope everybody had a
5 nice holiday.

6 So I've got some housekeeping things I want to go over.
7 I'm going to then address I think all of the various motions
8 that you-all have pending. Then I will be happy to entertain
9 any other subjects you-all want to talk about.

10 And my handy-dandy checklist that I keep up here to go
11 over pretrial matters is missing.

12 MR. DAY: Your Honor, we have kind of a courtesy
13 copy of the pretrial materials, if that would help.

14 THE COURT, no this is my little checklist of things
15 that I like to tell you-all about. The courtroom elves
16 appeared over the holidays and have hidden it. We will try to
17 get by as best we can. And I think I usually remember most of
18 this stuff.

19 First, I don't know the facts as well as you all do. I
20 have some idea about the facts, but I don't know them as well
21 as you do.

22 Quick question for the Receiver or the Defendants. The
23 money came out of the form of a loan?

24 MR. SADLER: Several loans. Yes, Your Honor.

25 THE COURT: And were they non-recourse.

1 MR. SADLER: They were demand loans. There was a
2 set-off provision included in the terms and conditions, but
3 they were demand loans, interest only. They were on demand
4 with a set-off. That's the short version.

5 THE COURT: And why did you not just sue on the
6 loans? Was it because of the set-off provision?

7 MR. SADLER: The complication was before the
8 Receiver took over, civil, with the agreement of the
9 Defendants, cancelled the CDs against the loan balance, and so
10 as of the time we took over the loans were -- did not exist,
11 so that's why we sued as fraudulent transfers.

12 THE COURT: Okay. So, although it wasn't directly a
13 redemption of the CDs, it essentially became a redemption of
14 the CDs.

15 MR. SADLER: Yes.

16 THE COURT: Okay. Thank you.

17 MR. SADLER: Sure.

18 THE COURT: After going over the pretrial materials,
19 I have decided on reflection to reconsider the summary
20 judgment ruling on the unjust enrichment claim, and I'm going
21 to grant the motion for summary judgment by the Magness
22 Defendants on the unjust enrichment claim, and I just want to
23 very briefly explain my thinking about that.

24 First, as the Receiver correctly points out unjust
25 enrichment claims are factually dependent, and I think on

1 these facts where the Magness Defendants essentially just got
2 their own money back, there is no unjust enrichment as a
3 matter of law.

4 I understand the Receiver argues that it's not simply
5 that they got their money back; they got their money back
6 knowing that it was a Ponzi scheme, and that's what makes it
7 unjust. I think extending the unjust enrichment doctrine to
8 that, and I believe it would be an extension under Texas law,
9 would be simply extending common law to duplicate a statutory
10 remedy. And I understand the Receiver's argument that TUFTA
11 is cumulative of any existing law, and that may well be the
12 case, but I think here the Receiver is arguing for an
13 extension of common law rather than the Magness Defendants
14 arguing for an abrogation of common law, and I don't believe
15 the Texas Supreme Court under these facts would extend any
16 common law claim for unjust enrichment to encompass the
17 Receiver's theory.

18 I also take some comfort from the fact that I believe
19 under these facts any error in that decision would be harmless
20 because I don't think there's any possible circumstance where
21 the Receiver could lose on its TUFTA claim yet prevail on its
22 unjust enrichment claim. And I think making this ruling will
23 streamline the trial and avoid what otherwise would be at
24 least a risk of potentially inconsistent rulings from the
25 jury.

1 My suspicion, and I don't need you-all to confirm or deny
2 it, my suspicion is the Receiver liked this claim because it
3 supported your argument that you should be able to open and
4 close, because I don't think it adds otherwise anything else.
5 It just gives you the same fact issues that are already in the
6 TUFTA case, except you would bear the burden of proof instead
7 of the Defendants. So what I'm thinking why would you want
8 another claim that duplicates what's already in there but
9 shifts the burden of proof to you. The right to open and
10 close is the only thing I can think of.

11 As I say, you don't need to confirm or deny that. It's
12 just my speculation. And I don't -- If that is, in fact, the
13 case, I don't fault you for making that argument. If I were
14 clever enough to think of that, I would in your position have
15 done the same thing.

16 But I think for the reasons I said, I'm going to grant
17 the motion for summary judgment on unjust enrichment.

18 MR. SADLER: Your Honor, may I address the Court
19 with just one brief question?

20 THE COURT: Question, yes.

21 MR. SADLER: Yes, sir.

22 I heard Your Honor's comments about the Magness
23 Defendants getting back their own money and why that factored
24 into your ruling, and I wanted to be very clear with the Court
25 that the Receiver is going to argue and we are going to

1 present evidence that they did not, in fact, get back their
2 own money; that they were paid --

3 THE COURT: I understand that position.

4 MR. SADLER: I just want -- That's why the question.
5 I didn't want to understand what you were saying as some sort
6 of ruling that would impact the TUFTA claim.

7 THE COURT: Not at all.

8 MR. SADLER: Thank you.

9 THE COURT: Not at all. I think, in fact, if you
10 looked into the Stanford bank accounts, the dollars didn't
11 have names on them.

12 MR. SADLER: Understood. Thank you.

13 THE COURT: But you are welcome to -- And I know you
14 make that argument that it was the other investors' money.

15 So given that, I'm going to grant the Magness parties'
16 motion to reorder trial presentation because I think, on
17 everything that's left, they have the burden of proof. I
18 don't necessarily disagree with what the Receiver said about
19 context and order of presentation for the jury to better
20 understand what's going on, but I think, since they have the
21 burden, they're entitled to go first.

22 So that brings us to some housekeeping things.

23 I assume if this were going to settle it would have done
24 so already, so I will skip over that part of my questions.

25 In view of those rulings, how long do you-all think this

1 will take?

2 MR. PETRIE: Good morning, Your Honor. I am Drew
3 Petrie representing the Magness parties.

4 We have a significant amount, unfortunately, of
5 videotaped testimony. The only good news about that, that
6 gives you a set time that we all don't control. We just know
7 what the time it is. So I'm thinking, given the change in
8 order, and before there were some adjustments we were
9 considering making in light of a lengthy meet and confer we
10 had yesterday, but I'm thinking we will probably take into
11 Friday, starting on Monday. So at least four days.

12 THE COURT: Okay. And what does the Receiver think?

13 MR. SADLER: I think I heard Mr. Petrie say his case
14 would take four days?

15 I didn't quite hear. Is that right?

16 MR. PETRIE: That was my estimate.

17 MR. SADLER: For our case, including reasonable
18 estimates for cross examination time, we worked about a total
19 of about 16 hours of evidence. So if he's talking about, you
20 know, 20 hours for him, it sounds like we are not exactly the
21 same, but we are in something of the ballpark.

22 I don't think Your Honor's -- I don't think Your Honor's
23 ruling on the unjust enrichment has shortened the case. It
24 shortened the charge, but I don't think it shortened the
25 evidence at all.

1 THE COURT: Confirming my views.

2 That sounds like seven trial days to me, roughly five
3 hours a day. So what I'm going to do is give you essentially
4 the amount of time that you requested--35 hours divided by
5 two.

6 And so you understand the way I do this, I will give you
7 subsidiary limitations on opening and closing, so if you've
8 saved your time carefully and you've got ten hours left at the
9 end of the case, I'm not going to let you argue for ten hours.

10 And if you need to know ahead of time how much argument I
11 will give you, we can talk about that. But for opening,
12 closing, direct, cross, half of 35 hours, 17 and a half hours.

13 And I will keep the time. I know different courts do
14 this different ways. I will keep the time. I will give you a
15 count at the end of every day, if you will remind me.

16 And I do this sort of like a chess clock. When one side
17 says, "Pass the witness," the clock goes over to the other
18 side. So if you need time to set up and gather your notes and
19 prepare, help yourself, take all the time you want, but the
20 clock is running. So I had some people not understand that,
21 and that's one reason sometimes if you keep independent time
22 counts, it may not match mine. But mine basically is that any
23 time the jury is in the box the clock is running, typically.

24 If you have any questions about the time-keeping
25 procedures, feel free to ask, but I think that generally

1 explains it.

2 We typically don't get five hours the first day. We may
3 hit five hours the second day, then after that we typically
4 run more than five hours. So giving you 35 hours probably
5 means we'll argue it Wednesday morning, and that gives the
6 jury plenty of time to finish before the end of the week.

7 You'll recall Monday, not this Monday but the following
8 Monday, is a federal holiday, so we'll be off that Monday.
9 But we'll come back Tuesday, and it sounds like wrap up
10 testimony probably Tuesday and then argue it Wednesday.

11 I'll try to get you a draft charge by the end of this
12 week so that you can be thinking about that. I know you've
13 already thought about it, but I'll try to give you at least my
14 thoughts about it.

15 Back to my missing checklist.

16 On jury selection, I'm going to seat seven. I think we
17 are bringing in a panel of 24. You'll each get three strikes.

18 I will endeavor to do what I think is a full examination
19 of the panel. And I will certainly consider your requested
20 questions. I will try to cover all the subject matter. I'm
21 not going to read your questions verbatim off the submissions,
22 but I will at least look at them and try to cover the subject
23 matter.

24 At the end of my questioning I'll give each side 15
25 minutes with the panel. At the end of your examination I will

1 bring in one by one any panel members who look problematic.
2 So if you think of your time as used to identify potential
3 problem panel members as opposed to establish challenges for
4 cause on potential problem panel members, it may not be quite
5 as limiting as it otherwise seems.

6 To bring a panel member in for individual questioning, I
7 require having heard something out of their mouths to make me
8 think there's a potential problem. So if you say, "Panel
9 member 7 looked sad," that won't do it because I won't have
10 noticed that they looked sad. So I just need to hear
11 something from them that tells me, yeah, we need to follow up
12 about this subject.

13 If you are in doubt about whether or not a person has
14 crossed that low threshold, feel free to ask me, and I would
15 suggest something along the lines of, "Judge, can we follow up
16 separately with this panel member?" And if I think you are
17 over that very low threshold, I will say, "Yeah, let's follow
18 up separately." If I think you are over the threshold and you
19 are still following up with the panel member, I'll probably
20 jump in and say, "Let's just visit separately with this
21 person" to avoid the risk of tainting the whole panel.

22 I don't like for you to ask leading questions of my poor
23 defenseless venire people. The leading question tells me what
24 you would wish they would say, but it doesn't really tell me
25 what they say on their own without prompting. And I find the

1 suggestive nature of leading questions so great that I
2 basically give zero weight to a response to a leading
3 question.

4 That's probably enough about jury selection.

5 When we get to witnesses, I need for you to question from
6 the podium, please, and the main reason is simply that we can
7 hear you better with the mics at the podium than we can from
8 counsel table. It's not a huge courtroom, but the acoustics
9 are not great. The sound system now is about a year old, but
10 we still have issues with fine-tuning it, and we find that
11 people have trouble hearing when I wouldn't think they did.
12 But we've just -- We've got still some residual issues, so it
13 is helpful for us if you can question from the podium.

14 If you need to approach the witness, please ask for
15 permission to approach. Also it's helpful for me if you say
16 "Permission to approach the witness" so I know you want to go
17 there instead of coming over here to talk to me. If you
18 forget and don't ask permission, nothing really bad is going
19 to happen to you. I don't have a water gun. Lightning is not
20 going to strike. I'll just be sad. And I may remind you,
21 "Please request permission to approach the witness." I will
22 always grant you permission to approach the witness. There's
23 not a one approach rule or anything like that. I just like to
24 know what's going on out in the well of the courtroom and
25 that's something that helps me.

1 Two rounds of questioning per witness per side--direct,
2 cross, redirect, recross, thank you, sir, you may sit down.

3 Particularly when we're on the clock, as we will be, I
4 need for you to be sure we have enough witnesses to get
5 through the day.

6 And, by the way, our workday is 9:00 to 5:00. And I
7 typically take lunch 12:30 to 1:30, and take a 20-minute break
8 halfway through the morning and halfway through the afternoon.
9 There may be circumstances where we have to adjust that, and
10 if so I'll try to give you as much advanced notice as I can.

11 But if we run out of witnesses at 4:00 and we're trying
12 to stay on schedule, that will make me unhappy. I will
13 probably charge the time against whoever was on deck.

14 In terms of the daily schedule, I try to stay on the
15 schedule. We can't always do that, I understand that, but
16 particularly I try to not have breaks go overly long. And a
17 consequence of that is if it's 19 and a half minutes through
18 our 20-minute break and I come in and you guys say to me,
19 "Judge, we've got some things we need to talk to you about
20 before the jury comes in" I will be in a very unreceptive
21 state of mind.

22 Now, I know things come up that we need to talk about. I
23 understand that. I'm saying tell me about that up front, not
24 at the end of a break. I will make time to visit with you
25 about stuff, but I prefer to do that either when we're on the

1 break or before we start in the morning or after we stop in
2 the evening or during the lunch hour, but not when I walk in
3 ready to bring the jury back in. So if there's something we
4 need to talk about, give me as much advanced notice about that
5 as you can and I'll be happy to find time to talk with you,
6 but don't spring it on me at the very end of the break or when
7 I'm ready to bring the jury in.

8 Carla remembers my checklist better than I do. Don't
9 make speaking objections. I'm happy for you to argue to me,
10 but don't make speeches in front of the jury in the guise of
11 objections. That will make me fussy. Usually one or two
12 words is enough for me to understand what the objection
13 is--for example, "Objection; leading." Okay I'm with you.
14 I'm with you on that. If I need a response, I'll invite one.
15 If I think we need to visit anymore than that, I'll invite you
16 up to the sidebar and we can chat, but don't make speeches in
17 front of the jury, please.

18 In depositions, you-all are taught to say "Objection;
19 form" now, and that's fine. Unfortunately here that's not
20 sufficient to tell me what the form objection is. There are a
21 variety of different form objections, as you know. So the
22 equal and opposite rule of what I just said is don't just say
23 "objection; form" because I won't know what you mean, and I'll
24 just reflexively overrule it out of doubt; doubt and
25 uncertainty.

1 Before we finish here today, let's talk about -- In fact,
2 let me just ask you now, how long do you think you need for
3 openings?

4 MR. PETRIE: I have to pause for a minute and think,
5 Your Honor, given the order. In a perfect world, I know I
6 realize I don't live in one, I would say 30 minutes.

7 THE COURT: Okay. How about the Receiver?

8 MR. SADLER: Thirty minutes is fine.

9 THE COURT: Okay. I think that's fine. I've got
10 criminal docket Monday morning, and I think we're at around
11 five sentencings right now. I've asked for the jury to be
12 available by 10:00. Realistically I'm probably not going to
13 get through five sentencings in an hour. I would like to, and
14 I'll try to, but I'm probably not. So if it's 10:30 when we
15 start picking a jury, then we'll probably get to seating the
16 panel and instructing them and sending them out to lunch and
17 then come back from lunch and do openings. So if everything
18 goes fast, maybe we can do openings before lunch, but my best
19 guess would be probably we will send them to lunch and then
20 come back and do openings.

21 I typically in my preliminary instructions use the
22 national preliminary instructions, and where there's the part
23 about instructions on the law, I usually just skip over that
24 because my experience has been I'm not confident enough about
25 what I'm going to charge the jury to tell them any preliminary

1 instructions then about the law.

2 I think in this case you-all have seen my order on the
3 affirmative defense, so you probably understand what my
4 thinking is about that. I would encourage you to -- I know
5 you are going to be otherwise busy over the weekend, but I
6 would encourage you to think about whether you can agree on
7 any preliminary instructions on the law as it applies to the
8 case and, if you can, I would be happy to give those. If
9 you-all are not in agreement, I'll just skip over it and we'll
10 sort through it at the jury charge. But it occurs to me that
11 you may be able at this point to agree on some instructions to
12 the jury preliminarily about what they'll be asked to
13 consider.

14 I'm not saying you have to agree on a final jury charge,
15 because we'll talk about that, obviously, later in the case,
16 but you may be able at this point to reach agreement and say
17 "The issues you're going to be asked to decide are." So think
18 about that, and if you are able to reach agreement on it I
19 will be happy to consider your proposed agreed language. And
20 I think if you do agree, I almost certainly will give that.
21 But I otherwise don't usually give them instructions about the
22 substantive law in the preliminary instructions.

23 MR. SADLER: Your Honor, may I ask a question about
24 that issue?

25 THE COURT: Yes.

1 MR. SADLER: Both sides I think have filed proposed
2 preliminary instructions. I think both sides would be have to
3 be adjusted in light of the ruling. Would you like us also to
4 come up with an agreed set of Plaintiff contends X, Defendant
5 contends Y, just in very condensed form, or were you planning
6 independently to just tell the jury something about just the
7 very bare bones of what's being contended here?

8 THE COURT: If you have language you agree on, I'm
9 happy to consider that. Otherwise, what I give them is sort
10 of the 50,000 foot overview--they have money and you want it;
11 maybe a little more specific than that.

12 MR. SADLER: We will visit with the other side on
13 both of these issues, just an agreed set of here's what the
14 parties are contending, and then if we can some encapsulation
15 of the law.

16 And then would you -- if we can get that done by the end
17 of the day tomorrow would you like it, or should we just bring
18 it on the Tuesday morning?

19 THE COURT: The sooner the better.

20 Monday. You are a week ahead.

21 MR. SADLER: Yes, sir.

22 THE COURT: I may have skipped something, but I
23 think that's most of the checklist.

24 Let me run through briefly your motions.

25 MR. SADLER: Your Honor may not have seen it since

1 it was filed last night. We did file a stipulation as to some
2 of the Receiver's motion in limine, but there are some open
3 items as well, but I don't know if Your Honor has seen it.

4 THE COURT: Briefly.

5 MR. SADLER: You've seen the stipulation to let you
6 know what has already been agreed to.

7 THE COURT: Yes. It would have been helpful if it
8 had been yesterday morning instead of the end of the day,
9 but --

10 MR. SADLER: Understood, Your Honor. We were
11 working on resolving exhibit objections and deposition
12 designations, and that consumed quite a bit of the day.

13 THE COURT: These are in the order I looked at them,
14 which is not necessarily the order that they were filed.

15 The Magness parties' motion regarding insider status,
16 which is Document 126, appears to me at this point to be
17 agreed. The issue comes up somewhat in the motion regarding
18 experts, and I'll talk about it more when I get to that one.

19 The Magness parties' motion regarding evidence acquired
20 after October 2008, Document 170, is denied.

21 The Magness parties' motion regarding Exhibit DX 35 is
22 denied.

23 And on all of these I'm -- I come from the state court
24 background, and a motion in limine there is not a pre-ruling
25 on admissibility or non-admissibility; it's simply a ruling

1 that you need to approach if it's granted. Likewise here, by
2 denying it I'm not saying I think Exhibit 35 is admissible.
3 I'm just saying I just want to hear the testimony, the
4 predicate in support of it.

5 So keep your powder dry. Reserve your arguments on that
6 until we get to the point where it's offered.

7 The Magness parties' motion regarding Stanford investors'
8 hardships, No. 184, is denied.

9 And I want to talk about that for just a moment. I'm
10 denying it based on what my experience with the Receiver in
11 other cases has been. I don't expect to hear anything from
12 the Receiver about widows and orphans and being thrown out on
13 the cold hard streets before Christmas Eve. What I've heard
14 in the past is just generally the Receiver talking about his
15 role as marshalling assets and distributing them to investors.

16 So given that understanding, I'm going to deny the
17 motion, but I would certainly sustain objections to the poor
18 widow lady or things like that. But I don't anticipate that's
19 going to be an issue.

20 And I think that's all of the limines for the Magness
21 parties.

22 Turning to the Receiver's motion, Item No. 1, which is
23 Receiver's fees and expenses, I'm going to grant with the
24 following exceptions.

25 I think it's perfectly fine to point out that the

1 Receiver's fees come out of the estate--that they're an
2 expense an overhead expense for the estate. But in terms of
3 let's add up all the Receiver's bills, I don't want to hear
4 that.

5 And also I think it's fair game on the retained experts
6 to ask them what their fees have been. So Ms. Van Tassel, for
7 example, I think it's fair game on cross to ask her how much
8 she's been paid by the Receiver estate.

9 MR. SADLER: May I ask Your Honor one question about
10 that point?

11 THE COURT: Yes.

12 MR. SADLER: We certainly understand testimony about
13 how much Ms. Van Tassel's firm has been paid on this
14 litigation. Obviously Ms. Van Tassel, through a number of
15 firms, has been involved going back to 2009, and we don't
16 think it would be germane to talk about how much the various
17 firms she's worked for in the past that weren't working on
18 this case have been paid. So if it's limited--perhaps that
19 was Your Honor's intent--to what she's been paid to work on
20 the Magness litigation, then that would be our request.

21 THE COURT: No. I think the amount that she's been
22 paid by the Receivership in the course of her work for the
23 Receivership is fair game in terms of potential bias.

24 MR. SADLER: Including the amounts paid to firms
25 she's no longer working for.

1 THE COURT: Correct.

2 MR. SADLER: I just wanted to be clear about that.

3 THE COURT: Sure.

4 Item No. 2, which generally is about other lawsuits or
5 claims that the Receiver has or has not paid, I'm going to
6 grant.

7 But I want to be a little more clear. The Magness
8 parties say they want to be able to use statements by the
9 Receiver in other cases for impeachment or cross or as
10 admissions, and I think that's probably generally okay--"Isn't
11 it true that in this case the Receiver took the position that
12 blank?" However they want to do it. So in granting Item
13 No. 2, I'm not precluding the use of specific admissions or
14 statements, but I don't want to retry other lawsuits in this
15 case and I don't want to go into the details of other cases,
16 except as may be necessary to give context to the admissions.

17 Item No. 3 about TUFTA is unfair I believe is agreed at
18 this point.

19 No. 4 about discovery disputes, I'll grant. And if you
20 think that somehow becomes relevant, approach and explain to
21 me why, but I need for you to approach before we get into
22 discovery disputes in front of the jury.

23 No. 5 is granted.

24 No. 6 I believe is agreed.

25 No. 7 and 8 I believe are agreed.

1 No. 9 about mediation is granted.

2 No. 10 about the deposition errata is denied.

3 And I'm happy for each side to say, "In the actual
4 deposition this is what he said, but then after the fact he
5 corrected it to say this," and the jury can make whatever they
6 want to out of that, but I'm not going to exclude the errata.
7 But I'm happy for the Receiver to identify it as a change made
8 after the fact.

9 MR. SADLER: Your Honor, may I address that?

10 Because there's an agreement I think between the parties now
11 that we have your ruling.

12 Given that you are going to allow that, the process we
13 would propose, but it requires Your Honor's
14 involvement--that's why I'm addressing the Court--is that we
15 would play the video of both of the parts submitted by both
16 sides, and at the end of the video we would ask the Court to
17 give a little -- a two-sentence instruction to the jury to
18 advise them about what's about to happen, and then the what's
19 about to happen would be counsel for the Defendant would take
20 the errata sheet and identify by question and line what the
21 question was, what the former answer was, the change, and the
22 reason for the change. But we think it appropriate for the
23 Court, rather than counsel, to say something to the jury about
24 what's about to happen, since it will be different from any
25 other deposition they will hear.

1 THE COURT: That's fine.

2 MR. SADLER: We will submit that instruction to Your
3 Honor.

4 THE COURT: Okay.

5 No. 11 regarding the Jason Green depo is denied.

6 No. 12 regarding reasonably equivalent value is granted.

7 And I believe that's all the limines.

8 The Magness parties' request for judicial notice, I will
9 take judicial notice of the regulation, but I'm otherwise
10 going to deny that motion.

11 Now, next on my pile is the Magness parties' motions
12 regarding Ms. Van Tassel and Mr. Post.

13 And I think I need to get back to the insider issue.

14 I would like for the Receiver's experts to avoid the word
15 insider. It just raises some issues I don't think we need to
16 get into, and I don't believe it's necessary. I don't have
17 any problem with the experts saying, "In our opinion the
18 Magness parties had preferential access to information," or
19 something along those lines, but I don't want to hear them say
20 they were insiders, because it's a term of art and it just
21 raises some complexities I don't think we need to get into.

22 I understand the Receiver is not pursuing the argument
23 that the Magness parties avoided market losses that they would
24 have incurred and that that was a form of benefit to them, and
25 I think that's good. I don't want to hear they obtained an

1 unjust enrichment by avoiding the declining S&P 500 during the
2 pertinent time frame.

3 I'm not precluding and I'm happy for you to put on
4 evidence that the Stanford CDs were offering returns in excess
5 of the market. I understand that argument and I'm fine with
6 that. But to say that these parties individually benefited by
7 being in the Stanford CDs instead of the market as a whole I
8 don't think you can do.

9 But the motion regarding Ms. Van Tassel is otherwise
10 denied.

11 With regard to Mr. Post, I don't know if the Receiver
12 intends to do this, but one of the issues raised in there was
13 Mr. Post testifying as to what I guess the Magness parties
14 knew, and I don't believe that that's a proper subject of
15 expert testimony. I'm happy for him to say, "Based on this, I
16 believe they should have known or would have known," or
17 however you want to say it, but I don't think he's in a
18 position to say, "Based on what I reviewed they knew." So I
19 don't know that that's a big distinction, but I think it is a
20 distinction.

21 MR. SADLER: Your Honor, may I ask a question about
22 that briefly?

23 THE COURT: Yes.

24 MR. SADLER: And I understand Your Honor's ruling to
25 be the experts can certainly testify this information was

1 presented to the Magness Defendants, this information was made
2 available to them, and the jury can draw the conclusion
3 whether the Magness people read it and knew it, but I
4 understand Your Honor's ruling to allow that kind of
5 testimony.

6 THE COURT: Yes. And one step beyond that, "Based
7 on this I believe they should have known."

8 MR. SADLER: Understood.

9 THE COURT: What I don't want is the clairvoyant
10 witness saying, "From this I can tell what was in their
11 heads."

12 MR. SADLER: Understood.

13 THE COURT: And the motion as to Mr. Post is
14 otherwise denied.

15 This brings us to a variety of objections regarding
16 deposition testimony. And here's what I would like for
17 you-all to do, and that is give me a copy of the depositions
18 for which there are objections. Where there are objections,
19 put one of those little sticky things that sticks out so that
20 I can look at the outside --

21 MR. SADLER: Your Honor, we did prepare something,
22 and if it meets -- The format, if you just want to take a
23 quick look and be sure the format is what you want.

24 MR. DAY: What we're handing up are a couple of
25 depositions that should come up earlier in the case, but with

1 the reordering that may be different, but Sutton volumes one
2 and two and Tonya Dokken.

3 THE COURT: Yeah. This is fine, except what I would
4 like you to do is a little sticky where there's an objection
5 so that I don't have to flip through every page to see if
6 there's an objection; I can just turn to each page with the
7 sticky. And there may be so many of them that I'm essentially
8 turning every page anyway.

9 MR. DAY: We've eliminated the pages where there are
10 no objections, but we will put flags on it.

11 THE COURT: Okay. That would be helpful.

12 Are you-all familiar with what he just gave me?

13 MR. PETRIE: Yes, Your Honor. We met yesterday and
14 what we did was -- what was tendered is just the pertinent
15 blocks of testimony where there are objections that we
16 otherwise couldn't resolve among ourselves, and so that was
17 the pared-down presentation the parties prepared.

18 THE COURT: Okay. Good. Then I will skip over
19 that. If you can let me know probably first thing Monday
20 which order I need to go through those on, that will help me
21 prioritize, and I'll get those back to you as quickly as I
22 can.

23 MR. PETRIE: When we went -- Excuse me, Your Honor.
24 When we went through the exercise yesterday, we were looking
25 at the order of the presentations as being different. But

1 nonetheless, Ms. Dokken's testimony, that the parties have
2 distilled down to 11 unresolved objections, will come up
3 fairly early in the reordered presentation, and we could leave
4 that with you today if that's at all helpful.

5 THE COURT: Sure.

6 MR. PETRIE: Okay. Thank you.

7 THE COURT: Yep. That would be fine.

8 Okay. I'm done.

9 Other things on the Magness side that we need to talk
10 about?

11 MR. PETRIE: None. Thank you, Your Honor.

12 THE COURT: From the Receiver?

13 MR. SADLER: Do we still get to sit here, Your
14 Honor?

15 THE COURT: No. Sorry. But look, you get the extra
16 side table.

17 Anything else?

18 MR. SADLER: No, Your Honor. That's all from us.

19 THE COURT: All right. I didn't ask for you-all to
20 confirm my initial comment that I assume it's not settling.
21 Do you make that assumption as well?

22 MR. PETRIE: We do, Your Honor.

23 MR. SADLER: That's correct.

24 THE COURT: Okay. All right. Good. Then we know
25 what we'll be doing Monday.

1 Then have a very pleasant weekend, and we'll see you
2 Monday as close to 10:00 as I can make it.

3 (End of hearing.)
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I HEREBY CERTIFY THAT THE FOREGOING IS A
CORRECT TRANSCRIPT FROM THE RECORD OF
PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.
I FURTHER CERTIFY THAT THE TRANSCRIPT FEES
FORMAT COMPLY WITH THOSE PRESCRIBED BY THE
COURT AND THE JUDICIAL CONFERENCE OF THE
UNITED STATES.

S/Shawn McRoberts 01/06/2017

DATE
SHAWN McROBERTS, RMR, CRR
FEDERAL OFFICIAL COURT REPORTER

APPENDIX B

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
 DALLAS DIVISION

3 RALPH S. JANVEY, IN HIS (CAUSE NO. 3:15-CV-401-N
4 CAPACITY AS COURT-APPOINTED)
5 RECEIVER FOR THE STANFORD (
6 INTERNATIONAL BANK, LTD.,)
7 et al., (
8 Plaintiff,)
9 (
10 vs.)
11 (
12 GMAG LLC, MAGNESS SECURITIES)
13 LLC, GARY D. MAGNESS, and (
14 MANGO FIVE FAMILY, INC., IN)
15 ITS CAPACITY AS TRUSTEE FOR (
16 THE GARY D. MAGNESS IRREVOCABLE) DALLAS, TEXAS
17 TRUST, (JANUARY 9, 2017
18 Defendants. (11:30 A.M.

12
13 VOLUME 1

14
15 TRIAL ON THE MERITS
16 BEFORE THE HONORABLE DAVID C. GODBEY
17 UNITED STATES DISTRICT JUDGE
18 and a jury

19
20
21
22 SHAWN M. McROBERTS, RMR, CRR
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1 Separate and apart from whatever the evidence might be, you
2 are already favoring one side over the other?

3 THE PANEL MEMBER: Correct.

4 THE COURT: Okay. That's all we needed to hear.
5 Thank you, ma'am.

6 THE PANEL MEMBER: Thank you, sir.

7 (Panel Member [REDACTED] left the courtroom.)

8 (Panel Member [REDACTED] entered the courtroom.)

9 THE COURT: Come on down just right in front,
10 please, ma'am. Just right here so we can talk without having
11 to yell at each other. How are you doing today?

12 THE PANEL MEMBER: I am wonderful. Thank you.

13 THE COURT: Good. We appreciate your service. At
14 the end I asked sort of a catch-all question, and according to
15 my notes, you were one of the folks who raised a hand on that.
16 Tell me what was on your mind about that.

17 THE PANEL MEMBER: Well, I don't know if I missed
18 your question about investments. You know, it don't have the
19 same definition as to what's going on here, but I was an
20 employee of [REDACTED] and I invested big time into that. And
21 when it bottomed, started bottoming out, well, what happened
22 was the higher people in the position knew when to get out and
23 what happened with the people in the lower entity, they didn't
24 have that option. They blacked us out, so we couldn't get our
25 benefits as they did, the higher group, you know.

1 So it was -- I said we invested, but we could not get out
2 at substantial amounts what we had, which was totally
3 devastating to a whole lot of people. And just to say, you
4 know, I don't know if you asked that question about
5 investments or, you know, and I didn't get it or whatever.
6 But I know it's not the same definition as to what's going on
7 here.

8 THE COURT: But it certainly has some similarities,
9 and I appreciate you bringing that to our attention.

10 Given that circumstance, do you feel like you can still
11 be fair to the parties involved here, or do you think that
12 circumstance would affect your ability to be fair?

13 THE PANEL MEMBER: To be totally honest with you,
14 I'll say it had a big impact on me, so I don't know if I could
15 totally be honest, because I don't know what would be
16 mentioned, you know, what would be said to relate to, you
17 know, what I saw in the past. So I think that it would have
18 some bearings on it, a lot of bearings on it really.

19 THE COURT: Okay. I appreciate your bringing that
20 to our attention. I think that's all we needed to hear about
21 from you. Thank you for mentioning that.

22 MR. SADLER: Thank you, ma'am.

23 (Panel Member ██████ left the courtroom.)

24 (Panel Member ██████ entered the courtroom.)

25 THE COURT: Come on up, please, sir.

1 you-all disagree and want to make a pitch to the contrary, I
2 am happy to listen to you, but that was my perception of them.

3 MR. SADLER: From the Receiver, Your Honor, we agree
4 with Your Honor on Juror No. 5 and Juror No. 7 and Juror No.
5 11.

6 With regard to [REDACTED] Your Honor, I would say two
7 things. I would -- I took note of her comment that she didn't
8 know whether her experience would match what she would hear
9 from the evidence or would be totally different, and I didn't
10 hear her disqualify herself, as I understand it. I did hear
11 her say that that experience would have an impact. What I
12 didn't hear her say is that she would be unable to follow the
13 Court's instructions that you would give to follow the
14 evidence and follow you and set that aside. That's
15 instructions, of course, you give to the jury before they
16 begin hearing the case.

17 I think that, plus I do have a concern from the
18 standpoint that within -- certainly within striking distance,
19 she's the only African-American juror that we have that I
20 didn't hear the case made to dismiss her for cause, Your
21 Honor, and so we would not agree to dismiss her for cause.

22 THE COURT: Okay. Respectfully, I'm going to
23 overrule that. I think given her personal financial loss and
24 the factual similarities, it is very understandable why she
25 responded the way she did, and I believe she was -- she said

1 it would affect her, and I think that's enough.

2 MR. SADLER: Understood.

3 THE COURT: So the objection is noted and overruled.

4 MR. PETRIE: None. Thank you, Your Honor.

5 THE COURT: Okay. Let's just check our arithmetic
6 here quickly. I am going to seat seven. You get three
7 strikes each. So seven plus six is 13, and I've excused four.
8 So I believe that takes us up through Juror No. 17 at risk. I
9 say at risk. In play maybe is a better way to say that.

10 Does that match you-all's arithmetic?

11 MR. SADLER: It does.

12 THE COURT: How long do you need for strikes?

13 MR. SADLER: If we can have 15 minutes, Your Honor.

14 THE COURT: Okay. And I would suggest that one side
15 adjourn to the jury room, which I believe is through there
16 (indicating). Right there, through there.

17 MR. SADLER: They are closer, I suggest.

18 THE COURT: Yes. You guys, why don't you borrow the
19 jury room so you can have some privacy, and Carla will hunt
20 you down mercilessly in 15 minutes.

21 (Brief recess.)

22 THE COURT: I'm going to seat the panel, swear them
23 in, tell them to not talk about the case, and send them to
24 lunch, and we'll give them the long version later.

25 MR. SADLER: Before we break for lunch, a couple of

APPENDIX C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RALPH S. JANVEY, IN HIS (CAUSE NO. 3:15-CV-401-N
CAPACITY AS COURT-APPOINTED)
RECEIVER FOR THE STANFORD ()
INTERNATIONAL BANK, LTD., ()
et al., ()
Plaintiff, ()
vs. ()
GMAG LLC, MAGNESS SECURITIES ()
LLC, GARY D. MAGNESS, and ()
MANGO FIVE FAMILY, INC., IN ()
ITS CAPACITY AS TRUSTEE FOR ()
THE GARY D. MAGNESS IRREVOCABLE) DALLAS, TEXAS
TRUST, (JANUARY 10, 2017
Defendants. (9:00 A.M.

VOLUME 2

TRIAL ON THE MERITS
BEFORE THE HONORABLE DAVID C. GODBEY
UNITED STATES DISTRICT JUDGE
and a jury

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1 P R O C E E D I N G S

2 THE COURT: Are we ready?

3 MR. PETRIE: Yes, Your Honor. I did want to hand
4 up, if it's okay with you. We have the agreed excerpts on
5 Wilk that had some objections. We are not going to need them
6 today, but obviously the sooner we can get them to you the
7 sooner we can undertake the deposition.

8 May I approach?

9 THE COURT: Please.

10 MR. PETRIE: Excuse me, Your Honor. There's also --
11 the parties have filed their respective proposed instructions
12 regarding Mr. Sutton's testimony and the corrections. I
13 thought I'd hand those up so you have them and don't need to
14 pull them electronically.

15 THE COURT: Okay. Sure.

16 MR. POWERS: Your Honor, we filed one just a few
17 minutes ago. We are bringing up a copy for Your Honor.

18 THE COURT: Okay.

19 MR. PETRIE: I apologize, Your Honor. Two pieces of
20 paper. I thought they were different pieces.

21 THE COURT: Not a problem.

22 Anything else?

23 MR. PETRIE: No. Thank you.

24 MR. SADLER: No, Your Honor.

25 THE COURT: All right. Let's bring them in.

1 (Whereupon, the jury entered the courtroom.)

2 THE COURT: Be seated.

3 Good morning. It's sort of nostalgic for me. This was
4 my old courtroom for seven, eight years. So I remember the
5 awful sight lines. I remember the cramped space in the well.
6 It's just -- I repressed those memories until I got back here.

7 If you-all have any trouble seeing or hearing or anything
8 like that, please let us know and we will try to make
9 adjustment to fix that. There's a built-in screen on the wall
10 there, and it's got lights in front of it. If you are having
11 trouble seeing what's on the screen, again please let us know
12 and we can dim those lights to make it a little better. I
13 just didn't want our witness to be sitting in the dark. I
14 wanted you to be able to see him, so we have those turned on
15 now. But as I say, if that becomes a problem for you, please
16 let us know and we will try to fix it.

17 I hate to say this, but I don't anticipate anything
18 peculiar today. You never know. But I think we're just going
19 to spend a good solid day here covering lots of testimony.

20 We'll go until about 10:30-ish and take our morning
21 break, and then lunch at 12:30.

22 Are the Magness parties ready to proceed?

23 MR. PETRIE: Yes, sir.

24 THE COURT: All right. You may proceed.

25

1 GARY MAGNESS, CONTINUED

2 DIRECT EXAMINATION

3 By Mr. Petrie:

4 Q. Mr. Magness, when we left off yesterday evening we were
5 starting to talk about Mango Five and some of its business,
6 and I wanted to pick up a little bit before we left off on
7 some items that I thought we should go over for background.

8 So can I ask you to look again, please, at Exhibit No. 41
9 in your binder? And it's also -- if it's easier for you, it's
10 on the screen behind you. But, of course, the difficulty of
11 that is the jury is looking at the back of your head.

12 And if you will just let me know when you find 41.

13 A. This is a different book than yesterday.

14 MR. PETRIE: Okay. May I approach, Your Honor?

15 THE COURT: Yes.

16 MR. PETRIE: I forgot, Your Honor, yesterday I
17 agreed I would identify these by PX or DX. This is PX 41.

18 Q. (BY MR. PETRIE) Mr. Magness, if it's easier, too,
19 there's a small monitor in front of you. You can see it
20 electronically if the notebook is too cumbersome. And I
21 apologize for that confusion.

22 But looking at the first page of PX 41, there is a
23 reference there to Liberty Media and affiliates. And in a
24 very general way, could you explain to the jury what Liberty
25 Media and affiliates is.

1 A. It's the group of stocks that my parents put -- created,
2 founders of. It's cable TV mainly.

3 Q. And in this context talking about it as trust assets,
4 were these stocks in which GMIT, the Gary Magness Irrevocable
5 Trust, had an ownership interest?

6 A. Yes.

7 Q. Were these something that you generally discussed at each
8 of the meetings of the Mango Five board?

9 A. Yes, it is.

10 Q. There is then -- and it carries over -- it starts at the
11 bottom of this page, and item 2(b) talks about a report on
12 diversification plans. Do you see that?

13 A. Yes.

14 Q. And can you tell the jury what was going on in February
15 of 2007, just a couple of months after the formation of Mango
16 Five, what was going on in terms of diversification plans?

17 A. Diversification plans would have been, you know, trying
18 to get your stocks less piled into just certain things. Like
19 cable TV is all related to cable TV. You need to kind of be
20 spread out across the market. And that's the thinking of, you
21 know, good finance.

22 But we had put money in different funds, and we bought
23 these CDs, we did real estate, we built into a company that's
24 Space Power Access. It's a computer farm, if you will. And
25 just trying to diversify a little bit.

1 Q. And when you say that you need to diversify, what do you
2 mean by that?

3 A. Well, we were -- probably 99 percent of the assets were
4 cable-related.

5 Q. Okay. And when you talk about space and power farm, what
6 is that?

7 A. That's a data center, I guess another way to say it.

8 Q. Is that the same thing we talked about as being Fortrust?

9 A. Foretrust, yes.

10 Q. If you could then look at the second page of the same
11 exhibit, and I'm still -- now I'm going to the top of the next
12 page and looking still at paragraph 2 of these minutes.
13 There's a lengthy discussion here, still under this heading of
14 diversification, but there's a discussion there about a
15 liability to HSBC of approximately \$214 million. Do you see
16 that?

17 A. Yes.

18 Q. And what is the source of ending up owing HSBC bank
19 \$214 million as of February of 2007, or the trust owing that
20 money to HSBC?

21 A. Well, lots of different loans associated with paying my
22 father's inheritance tax, a divorce of mine, building the
23 trust, taking control of my family ranches from both sides
24 of -- my brother's side and my side I finally bought all of
25 it. So there was quite a bit of money.

1 Q. And if we continue to look down that same page, page 2,
2 there's also a discussion about trying to reduce the amount of
3 the debt. And if you look a little bit further down the page,
4 you'll see that there is a discussion here where someone makes
5 a motion to use \$100 million of Liberty stock proceeds,
6 proceeds from sale to pay down an outstanding indebtedness.
7 Do you see that?

8 A. Yes.

9 Q. And was that something that you were agreeable to in
10 February of 2007?

11 A. Yes.

12 Q. Okay. And if you would look again, continuing down that
13 same paragraph, there is a mention of SIB certificates of
14 deposit there. It is in the paragraph that begins "Ray
15 indicated." Do you see that?

16 A. Yes.

17 Q. Can you tell the jury, please, what was going on in
18 February of 2007 with respect to this discussion of the
19 Stanford International Bank certificates of deposit?

20 A. Yes. I believe what was surrounding this was the need
21 for an insurance to be paid for the people involved so that
22 they -- if they weren't prudent, that they couldn't be sued.
23 And I said, why don't we just change it so I'm the only one on
24 the investment committee.

25 Q. Okay. And --

1 A. And they become consultants.

2 Q. Consultants to you?

3 A. Yes.

4 Q. Okay. There is, then --

5 MR. PETRIE: and I misspoke earlier. Let's go to
6 the next page, please, Austin.

7 Q. (BY MR. PETRIE) And if you could look at paragraph 3,
8 there is a discussion that begins -- there's two paragraphs at
9 the bottom of 3, both of which begin with the word "Gary."
10 Could you tell -- And there's a reference in there to the
11 Stanford international CDs. Could you tell the jury what was
12 going on with this piece of the meeting?

13 A. We suggested lending Steve and his wife 11 and a half
14 million dollars so they could purchase CDs from Stanford so
15 that that could, you know, at least give them some income
16 while we did our typical businesses.

17 Q. And at this point in time, had your -- the belief you
18 told us about yesterday about the risk involved with the
19 Stanford certificates of deposit changed in any way, either up
20 or down?

21 A. No.

22 Q. At this point in time you're talking about a proposed
23 transaction. Did this happen at some later date?

24 A. Yes, it did.

25 Q. And where this set of minutes goes through and talks

1 about the various assets of the trust, was that something that
2 happened at more than one meeting of Mango Five and its board?

3 A. At every meeting.

4 Q. And why did you do that at every meeting?

5 A. We always assessed our position in the market and with
6 regards to risk and what we perceived as to go forward
7 investing in.

8 Q. Okay. And if you could look at the very last page of the
9 exhibit where there's a signature and a date on the document.
10 Just let me know when you have that.

11 A. Yes.

12 Q. And can you tell the jury, please, why on the minutes for
13 a February '07 meeting they're not dated until June of that
14 same year, so roughly a little less than four months later?

15 A. Well, typically the minutes for the meeting are taken
16 down in notes and then rewritten before the next meeting and
17 put into paper so they can be approved. A lot of times we
18 throw -- history that happened between those two meetings
19 sometimes gets plugged into these minutes.

20 Q. Looking at that, then, does this tell us -- give us an
21 idea of possibly when the next meeting of the board was?

22 A. June 21st.

23 Q. Could you look, then, at Exhibit No. 132, please? And
24 I'll ask you when you find that to look at the first paragraph
25 of 132. And it will be on the -- No. 132 is actually an

1 agenda followed by minutes. Let's go right to the minutes on
2 page 2.

3 A. Okay. I have it.

4 Q. And do you see the date on that? And then it talks about
5 approving meeting minutes from a previous meeting. Do you see
6 that?

7 A. Yes.

8 Q. And that ties into the dating convention that you just
9 discussed. Right?

10 A. Yes.

11 Q. Now, in this particular set of minutes, after the
12 approval in paragraph 2 you now have another discussion about
13 diversification of Liberty Media and affiliates stock. Do you
14 see that?

15 A. Yes.

16 Q. And this report talks about roughly \$150 million of stock
17 being liquidated and used to reduce that debt to HSBC. Do you
18 see that?

19 A. Yes.

20 Q. And was that liquidation something that you were involved
21 in? In other words, making the actual decisions as to when to
22 liquidate the stock and how much to liquidate and those types
23 of things?

24 A. I would be -- you know, the buck would stop with me on
25 whether or not it was liquidated or not. I believe in this

1 particular time frame the stocks were devaluated by at least
2 25 if not 35 percent.

3 Q. I'm sorry. You said evaluated?

4 A. Devaluated.

5 Q. And why, if they were devaluated by 25 or 30 percent --
6 or let me back up. Did you agree in the time we're looking at
7 in 2007, between February and June, to the liquidation of
8 roughly \$150 million of that stock?

9 A. Well, okay. I was off a year on my thought process. So
10 going back to '07, I would have been saying the stock was high
11 at that point.

12 Q. Okay. So did you agree with the --

13 A. Yes, I did agree.

14 Q. Okay. I'm going to ask you to wait for me. Sometimes
15 it's obvious where my question is going, but that way we don't
16 talk at the same time and don't drive the court reporter
17 crazy.

18 A. Sorry.

19 Q. This references now the outstanding debt to Hong Kong and
20 Shanghai Bank -- excuse me, HSBC being now at about \$102
21 million. Do you see that reference?

22 A. Yes.

23 Q. Was there any further discussion about continuing to try
24 and reduce that debt in the June of 2007 time frame?

25 A. Yes.

1 Q. And what was the discussion about continuing to try to
2 reduce that debt?

3 A. We needed to sell stock.

4 Q. Were you agreeable to doing that at that point in time?

5 A. Yes.

6 Q. Now, you mentioned earlier that your -- that the stock
7 was at least some earlier point in time roughly 99 percent of
8 the assets?

9 A. Yes.

10 Q. When you go through these sales, does that change?

11 A. Not really. The stocks change -- it changes just about
12 the same, I think.

13 Q. And how if you are selling such a large dollar value of
14 stock, does it stay about the same?

15 A. It's related to the stocks in general going up most of
16 the time and down some of the time. So it varies.

17 Q. But how does the variance in the stock price when you're
18 selling a large dollar volume of them leave you with roughly
19 the same percentage of your assets invested in that stock?

20 A. It just sometimes does that.

21 Q. Let's go look at the minutes for the next meeting, which
22 is in October of 2007, and look at Exhibit No. 133, please.
23 If you will let me know when you found that?

24 A. I have that.

25 Q. Okay. And if you could skip over the agenda, which is

1 the first page, and look at the second page. Let's just -- to
2 see if the system is the same, if you'd look at the first
3 paragraph, do you see that we have -- we start out with an
4 approval of the previous meeting minutes, the ones we just
5 looked at?

6 A. Yes.

7 Q. Okay. And then let's go to the meat, so to speak, of the
8 minutes, and in particular if you could start with paragraph
9 2, which is again a continuing report on the diversification.

10 And here you reference both a report that you provided
11 and then something about the price of LINTA. Do you see that?

12 A. Yes.

13 Q. And what is LINTA?

14 A. It's one of the -- one the stocks in the company.

15 Q. And when you make this report here that the price had
16 declined and you were waiting for the stock to recover, why
17 were you waiting?

18 A. Usually a lucrative plan to wait. If the stock goes
19 down, it always has come back up.

20 Q. Did you have any assurance that it was going to come back
21 up at this point in time?

22 A. No, I did not; just the history.

23 Q. Let's turn, if we can, to the second page of the minutes,
24 which is the third page of your document. And I'd like to
25 talk to you about the discussion here of the report on No. 7,

1 which is miscellaneous items.

2 And let's start with the very first sentence where
3 you -- it reports that you asked Ms. Dokken in turn to ask Mr.
4 Espy to prepare a report on the status of the certificates of
5 deposit. Do you see that reference?

6 A. Yes.

7 Q. Why did you ask Ms. Dokken to ask Mr. Espy to prepare
8 that report?

9 A. Well, the CDs in Antigua were basically not as easy to
10 follow as the stocks and the rest of the portfolio which you
11 could look on Bloomberg report and find out what the price of
12 the stock is. You had to actually get somebody to prepare a
13 paperwork on what's going down in Antigua.

14 Q. And why did you ask to have that information provided by
15 Mr. Espy?

16 A. Because he was our -- our agent.

17 Q. And when you say he was your agent, was he working for
18 you at Stanford Financial Group?

19 A. Yes.

20 Q. Or Stanford Group Company?

21 A. Yes.

22 Q. And when you say -- when you ask here for a full report,
23 did you give any specifics about what that would be, what a
24 full report would be?

25 A. Well, from looking at this, I did not ask anything

1 particular about that.

2 Q. Do you remember whether -- I understand that it's not
3 listed here. Setting aside what is written down, do you
4 remember whether you give any specific requests for the type
5 of information?

6 A. We had been following the news on, you know, the stocks,
7 the CDs, and so forth that were put together, certificates of
8 deposit and so forth, related to real estate mortgage-related
9 backed packages that were -- that were under pressure, and we
10 wanted to know if that affected their portfolio.

11 Q. You then -- I'm sorry, not you, but the minutes then go
12 on to talk about an additional request that you made of Ms.
13 Dokken to ask Mr. Chuck Wilk as to how the certificate of
14 deposit program could be further investigated. Do you see
15 that?

16 A. Yes.

17 Q. Had there already been some investigation by Mr. Wilk at
18 point in time into the certificate of deposit program?

19 A. Yes, I do believe so.

20 Q. And what do you believe was the investigation that he had
21 previously conducted?

22 A. Well, he -- Chuck Wilk had other CDs that he could have
23 sold us that were in a program that they called Stay Rich,
24 which gave eight percent, and he looked -- he checked the
25 Stanford CDs and decided he could not compete with what was

1 going on in the Stanford CDs. And he did not suggest we sell
2 those and buy his.

3 Q. And by the time we get to this meeting in October -- of
4 the investment committee in October of 2007, why were you
5 asking to have Mr. Wilk investigate or further investigate the
6 Stanford CDs?

7 A. Well, at this point we knew that he had done it before in
8 the past and would know how to look into it again. And he was
9 paid by us, whereas Mr. Espy was paid by Stanford, so we
10 wanted our side looking at it also.

11 Q. And did you give any specifics to Ms. Dokken to relay
12 through to Mr. Wilk about what you wanted him to look at?

13 A. For the same things--you know, possible risk to certain
14 investments that we heard on the news.

15 Q. Okay. At this point in time had your belief as to the
16 risk of the Stanford International Bank CDs changed in some
17 way, either up or down?

18 A. No, they had not.

19 Q. There was also on October 1st a meeting of the board of
20 directors of Mango Five, and I'd like to look at those minutes
21 if you wouldn't mind finding exhibit PX 134, please.
22 Hopefully, it's the next one in order.

23 A. I have it.

24 Q. Okay. And do you see, sir, that that's -- it's
25 got -- it's minutes of the meeting on the same day but of a

1 little different constituency, that it's the full board of
2 directors of the company. Do you see that, sir?

3 A. Yes, I do.

4 Q. And then there's a notation there to having present by
5 invitation Ms. Dokken, the CFO of Magness Investments. Do you
6 see that?

7 A. Yes.

8 Q. Why was she invited to participate in the board of
9 directors' meeting of Mango Five on October 1 of 2007?

10 A. She was our financial officer and did all the books for
11 Magness investment group, and all the paperwork goes through
12 her office.

13 Q. I'd like you to look at the second page of these minutes,
14 please, where there's a brief reference to Stanford. It's
15 roughly about the top third of the page, third of the way down
16 the page. Do you see that reference, sir?

17 A. Yes.

18 Q. And it begins by talking about negotiations with three
19 banks, HSBC, U.S. Trust, and Stanford -- excuse me, Sanford
20 for a new loan facility. Do you see that, sir?

21 A. Yes.

22 Q. And were you aware at the time that those negotiations
23 were going on?

24 A. Yes.

25 Q. Were they taking place at your direction?

1 A. Yes.

2 Q. Now, why were you talking or negotiating with three
3 financial institutions in October of 2007?

4 A. Well, I believe we no longer had Bankers Trust as a bank,
5 and we generally kept three to four different sources of
6 money.

7 Q. And why did you generally keep three or four different
8 sources of money?

9 A. So that we would negotiate the lowest interest rate which
10 was acceptable to ourselves, and we did not want a bank to
11 just keep ratcheting up. So we'd have four -- four banks with
12 exactly the same paperwork. If one tries to ratchet up, we
13 would just say either match it or send that loan to one of our
14 other banks.

15 Q. And in the context of the negotiations that are
16 referenced in these minutes, were you personally having any
17 conversations with anyone at the Stanford International Bank
18 about a possible new loan facility?

19 A. No.

20 Q. If you could then look at the next paragraph underneath
21 this one that begins, "Mr. Knudson." Do you remember having
22 or this conversation taking place in the meeting?

23 A. Yes.

24 Q. Was there at the point in time we're having the October
25 1st, 2007, board of directors' meeting, was there some concern

1 about the certificates of deposit with the Stanford
2 International Bank being at risk at that time?

3 A. No.

4 Q. Do you know why this topic came up in the board of
5 directors' meeting in October of '07?

6 A. I believe it's just good business practice.

7 Q. In what way, sir?

8 A. Well, if you are looking at a loan, you think of all the
9 benefits, good and bad.

10 Q. Did you have -- the other two banks here that the company
11 Mango Five is looking at at that time, HSBC and U.S. Bank, did
12 you have CDs with those banks so that they'd be in a similar
13 position to Stanford?

14 A. No.

15 Q. After October 1st, and we've seen there was at least a
16 report that these negotiations were going on, did Mango Five
17 enter into some sort of new loan facility with Stanford
18 International Bank? And let's say between October 1st of '07
19 and mid March of '08, the next six months or so.

20 A. We may have. I don't know.

21 Q. Okay. We'll see if we can refresh your memory as we go.

22 Let's step away from the -- excuse me. Let's look at the
23 next set of minutes, which is PX 55 from January 4 of 2008.

24 And if you will let me know when you've found 55, sir.

25 And, again, we have an agenda to start, so I'll ask you

1 to go right to the minutes on page 2.

2 A. I go from PX 141 to PX 158.

3 Q. Right. You need to go the opposite direction and look
4 for not 155 but 55.

5 MR. SADLER: I may be able to help. It's not in
6 evidence yet. That may be why it's not in his notebook. PX
7 55, that's -- our notes, it's just not part of the stipulation
8 yet.

9 THE WITNESS: Well, I've got a PX 055.

10 MR. PETRIE: That's the one to look at.

11 MR. SADLER: It's not in the stipulation. So you
12 just need to offer it.

13 Q. (BY MR. PETRIE) I apologize. It's -- you have PX 055.

14 A. Right.

15 Q. And can you tell the jury what PX 055 is?

16 A. It's a minutes for January 14th of '08.

17 Q. Minutes of what meeting?

18 A. Of a Estate meeting, we call it, Mango Five Family.

19 Q. And were these minutes prepared in generally the same
20 fashion that you've described for the previous minutes?

21 A. Yes.

22 Q. And were these minutes then kept as part of the business
23 records of Mango Five Family, Inc.?

24 A. Yes.

25 MR. PETRIE: Move to admit PX 055.

1 MR. SADLER: No objection.

2 THE COURT: It's admitted.

3 MR. PETRIE: May I then publish it to the jury?

4 Thank you.

5 Q. (BY MR. PETRIE) Mr. Magness, then if you could -- if you
6 have the second page open, there is a report on paragraph 3
7 concerning the loan negotiations, the topic that we were just
8 discussing. Do you see that?

9 A. Yes.

10 Q. And does that provide you with any information, at least
11 as of the December -- excuse me, January 4th, 2008 meeting as
12 to whether Mango Five had entered into a new loan facility
13 with Stanford?

14 A. It says she's engaged in negotiation.

15 Q. And would that lead you to believe whether there was a
16 new loan facility with Stanford or whether there was still
17 talk?

18 A. It looks like talk to me.

19 Q. Okay. Then I'd like you -- we are going to step away
20 just for a second from the minutes to put something in
21 context, and I'd like you to look please, if you would, at the
22 next document, PX 056.

23 And if we look at just the header on the email, there is
24 an email address there as a cc that is mangorace@gmail.com.
25 Do you see that?

1 A. Yes.

2 Q. Whose email address is that?

3 A. That's mine.

4 Q. And did you receive a copy of this email at some point
5 after noon on February 5th of 2008?

6 A. Evidently I would have.

7 Q. And is this something that the board of directors of
8 Mango Five authorized Ms. Dokken to send to Mr. Espy, the
9 person to whom she's sending this?

10 A. Yes.

11 Q. And could you give the jury, please, a little history as
12 to what led the board of directors of Mango Five to want to
13 get the information that we will look at in just a second that
14 is referenced in this exmail to Mr. Espy?

15 A. I'm sorry. The question?

16 Q. The question is, could you give the jury, please, a
17 little history as to why the board of directors was having Ms.
18 Dokken request this information from Mr. Espy?

19 A. So we could keep track of our investments.

20 Q. And was there something in particular in early February
21 of 2008 that led the board of directors of Mango Five to ask
22 for information from Mr. Espy?

23 A. No. It's just -- as I said before, it's hard to track it
24 without having a report made.

25 Q. What kind of report are you talking about?

1 A. Well, you have -- it's not like you can look it up on
2 Bloomberg or in the paper, you know, see their viability.
3 It's something you have to keep track of. Every time we have
4 a meeting, we want to look at our investments, and this is how
5 we would look at the Stanford investment.

6 Q. Did you treat the Stanford investment any differently
7 than the other investments when you have these quarterly
8 meetings?

9 A. No, sir.

10 Q. Let's look then at the text of what Ms. Dokken was asking
11 for. Do you know what she's referring to on behalf of the
12 board when she references there the unprecedented write-offs
13 and charges that the financial community and companies have
14 incurred in the last six months related to high-yielding and
15 mortgage-backed instruments?

16 A. Yes.

17 Q. What was she referring to?

18 A. As I was mentioning before, that the news had been
19 talking about a lot of these mortgage-backed securities were
20 faltering, and we wanted to know if they had invested in those
21 and in what quantity, if Stanford Antigua had invested in
22 those.

23 Q. And did you not know what Stanford Antigua was invested
24 in in February of 2008?

25 A. It's an -- investment companies tend to have just a

1 snapshot. What you take a snapshot of today may not be the
2 snapshot you take tomorrow.

3 Q. Did you-all get a response from Mr. Espy about this
4 request for information?

5 A. Yes.

6 Q. And what was the response?

7 A. It led us to believe that everything was doing just fine.

8 Q. Okay. Setting aside the substance of the response, what
9 mechanism did the response come back? For example, was it you
10 met somebody in an office building to talk about it, you got
11 something in writing, et cetera?

12 A. I believe we talked to the president, Juan Rodriguez.

13 Q. Did you -- did not you personally but did the board of
14 directors at Mango Five at any point in time ask to speak to
15 Mr. Juan Rodriguez from the bank?

16 A. I believe so.

17 Q. Did you ask to speak to him in connection with this
18 request for information?

19 A. Yes.

20 Q. Let's -- and what was the -- when you spoke to him, was
21 that a face-to-face conversation with him somewhere?

22 A. No.

23 Q. What type of conversation was that?

24 A. On the phone.

25 Q. And who participated in the phone call?

1 A. I don't remember being there myself, but other
2 representatives were there.

3 Q. Other representatives meaning who?

4 A. Tonya, Steve, Ray Sutton.

5 Q. If you could look, sir, at the next -- or the document in
6 your binder at PX 062, please. And, hopefully, that is an
7 agenda and then, following on page 2, the minutes of a meeting
8 of the investment committee on March 6 of 2008.

9 A. Yes, it is.

10 Q. Okay. And, again, starting with paragraph 1 just to tie
11 it into the stream, so to speak, do you see that that's --
12 first order of business is to approve the minutes from the
13 January meeting that we were just discussing?

14 A. Yes.

15 Q. Okay. And then let's look, if you would, at the top of
16 the next page where there is item No. 5, a report on the
17 Stanford certificates of deposit. Do you see that?

18 A. Yes.

19 Q. And looking through that report, does that help you to
20 remember whether you were present during the conversation with
21 Mr. Rodriguez that's referenced in this or in these three
22 paragraphs of the minutes?

23 A. I would have been present at that meeting.

24 Q. Okay. And in terms of the -- did Mr. Rodriguez during
25 this meeting provide you any information responsive to the

1 early February request asking about mortgage and
2 mortgage-backed securities?

3 A. Yes, he did.

4 Q. And what type of information did he provide you about
5 that?

6 A. That it was not a substantial portion of their
7 investments.

8 Q. Okay. And then the rest of this, do you see any
9 reference in there to the questions you asked about, about
10 mortgages, mortgage-backed securities, et cetera?

11 A. Yes, it does have that.

12 Q. Where do you see that?

13 A. Where we're highlighting "the bank then invests these
14 funds in a portfolio of investments."

15 Q. And in terms of that phrase about what the bank invests
16 in --

17 A. Yes.

18 Q. -- in which one or more of those categories did you
19 believe the mortgage instruments, to the extent they had any,
20 would have fallen?

21 A. I don't think in any of those.

22 Q. Okay. So realizing now that those don't necessarily
23 refer to mortgages, do you see any reference in these three
24 paragraphs to the issue of mortgages or mortgage-backed
25 securities that might or might not be something in which

1 Stanford International Bank had invested?

2 A. I don't see it.

3 Q. Okay. When you had this telephone call with Mr.
4 Rodriguez, did you ask essentially, why are you telling us all
5 this stuff that we didn't ask about, or something to that
6 effect?

7 A. You're asking me what?

8 Q. Well, if this is not talking about mortgages, did you ask
9 him why we were talking about all this other stuff or
10 something to that effect?

11 A. No, I did not.

12 Q. Did you follow up with him after this and have any
13 questions about the information that he provided?

14 A. I did not.

15 Q. You heard that counsel for the Receiver referenced to the
16 bank providing you with gibberish. Do you remember that in
17 his opening statement?

18 A. Yes.

19 Q. When you heard this information from Mr. Rodriguez, did
20 you consider it to be gibberish?

21 A. I did not.

22 Q. What was your reaction to hearing the information, at
23 least as it's reported in these minutes of the board, at the
24 time you heard it?

25 A. I was comfortable with the investments that he reported.

1 Q. And what was there about what he told you that made you
2 comfortable with the investments that he reported?

3 A. It was the fact that he wasn't involved with the
4 mortgage-backed securities in any large number.

5 Q. And at the board meeting, after you hung up the phone
6 with Mr. Rodriguez, was there any further discussion of the
7 information that he had provided?

8 A. No.

9 Q. Was there anybody tasked to follow up with him and get
10 any additional information based either on that phone call or
11 anything else, at least in the March of 2008 time frame?

12 A. I don't believe so.

13 Q. Now, at this point in time, Mr. Rodriguez having
14 discussed with you how the bank operated, was there anything
15 he told you about the bank's operations that struck you as
16 being new information from what you had previously not known?

17 A. No.

18 Q. Where was there anything about this information that he
19 provided that gave you some concern about the safety of the
20 money that you deposited in the CDs?

21 A. No, it did not.

22 Q. Did it change that risk calculus either way up or down
23 that you have described for us previously?

24 A. No.

25 Q. If you could look -- and I apologize for jumping around.

1 If you could look at the first page of the minutes and the
2 second page of exhibit PX 62, there is also a report under
3 item No. 3 about paydown of debt.

4 A. Yes.

5 Q. And we have a little different type of information here
6 where Ms. Dokken is reporting the total Magness-related debt.
7 Do you see that reference?

8 A. Yes.

9 Q. And do you know what she's referring to when she talks
10 about the total Magness-related debt in the context of these
11 minutes in March of '08?

12 A. It's compiled all debt across all Magness entities--GMAG,
13 GMIT, and Mag Securities.

14 Q. And was this debt at this point in time in March of 2008
15 spread across more than one lender?

16 A. Yes.

17 Q. What were the lenders involved with this debt in March of
18 2008?

19 A. It would have been Merrill Lynch, HSBC, U.S. Bank.

20 Q. Did you have any margin debt with Stanford Group Company
21 in March of 2008?

22 A. Yes.

23 Q. Was this included in this tally to the best of your
24 understanding?

25 A. Yes.

1 Q. Now -- we haven't really focused on this previously.
2 When did you open a securities account with Stanford Group
3 Company? So I want to step away for a second from the
4 certificates of deposit and talk about the related company,
5 the broker-dealer.

6 A. It probably was 2004, roughly.

7 Q. And in that rough time frame of 2004, did you also
8 establish a margin account borrowing relationship with that
9 broker-dealer?

10 A. Yes, I did.

11 Q. And how did -- just in a very general way, how did you go
12 about setting up that relationship?

13 A. Well, we first asked what the negotiation was with
14 respect to how much percentage would they loan you. If you
15 had a hundred dollars' worth of stock, they would lend you \$40
16 worth of cash that you could purchase other stocks. That's
17 the margin account.

18 We don't have anybody that's that low. All the ones we
19 have are 64 percent. So \$100, you could get \$64 before you
20 had a margin call. These guys upped that 40 percent to 50
21 percent to get our business.

22 Q. And did you have any discussion with them as to how it
23 was that they upped that amount to try and get your business?

24 A. No, I did not.

25 Q. Did you have any understanding that they had made some

1 sort of special arrangement to accommodate or to try and win
2 your business?

3 A. I knew nothing of it.

4 Q. And going forward with that margin account arrangement
5 and the borrowing you indicated had taken place there, at any
6 point in time did you discuss with anyone on the Stanford
7 Group Company's side how that margin account was structured
8 for the lender?

9 A. I did not.

10 Q. Why not?

11 A. It wasn't my side of the negotiation.

12 Q. Let's go back now to Mango Five and the board minutes.
13 If you could look in your notebook, please, at PX 073, please.
14 If you will let me know when you find that.

15 A. I have it.

16 Q. I'm going to ask you to turn to the minutes piece on the
17 first page. You've got that open. And do you see that that
18 references in paragraph 1, sort of parallelling what we looked
19 at previously, approving the minutes from March 6th of 2008?

20 A. Yes.

21 Q. But this meeting is in October of 2008. Right?

22 A. Yes.

23 Q. Was there not an intervening meeting sometime in the
24 summer of 2008?

25 A. Apparently not.

1 Q. Any particular reason why there was not a meeting? That
2 we've looked at, they seem to be happening every quarter. Any
3 particular reason why?

4 A. Well, I think maybe we are trying to get it to be every
5 quarter, but it didn't always come out that way.

6 Q. And if -- when there's a fairly or a little bit longer
7 period of, in this case, roughly six months, was -- did the
8 type of reporting change in terms of what we looked at going
9 through the various assets, et cetera?

10 A. Like I said before, that sometimes the minutes reflect
11 the history also between the two dates.

12 Q. All right. But the fact that there's a longer period,
13 does it change just generally the basic nature of the
14 reporting?

15 A. No.

16 Q. Let's look then, start with paragraph 2, which is talking
17 more about diversification. And here there's a reference to
18 you talking about not having present plans to sell the stock
19 of Liberty or its affiliates due to a significant decline in
20 prices. Do you see that reference?

21 A. Yes.

22 Q. And when you talk about a significant decline in prices
23 in October of 2008, what are you referring to, either in terms
24 of dollars or a percentage?

25 A. Well, I would think at that particular time the stock

1 was, you know, 50 percent the value it was in March.

2 Q. If you have pressure from lenders, why would you not
3 still sell the stock so you could address the loans?

4 A. You would sell some stock.

5 Q. Okay. Here you say that you had no present plans to sell
6 any stock of Liberty or its affiliates because of this
7 significant decline. Do you see that?

8 A. Right.

9 Q. But then Ms. Dokken points out that your covenants with
10 HSBC and U.S. Bank would require liquidation of the stocks if
11 trading prices fall below \$10 per share. Do you see that?

12 A. Yes.

13 Q. Was that news to you on October 1st of 2008?

14 A. No.

15 Q. Were you getting close to hitting the \$10 figure that
16 she's identifying here for HSBC and U.S. Bank?

17 A. I'd imagine that's exactly what that is.

18 Q. At this point in time were -- what was the relative
19 amount of debt you had with HSBC and U.S. Bank?

20 A. \$200 million.

21 Q. Were they your principal lenders at that time?

22 A. Yes.

23 Q. She then goes on to point out that GMIT was close to its
24 limit on borrowing capacity and that any further decline could
25 result in a margin call. Do you see that?

1 A. Yes.

2 Q. And at the time was that -- did you believe that was an
3 accurate report that -- the thing that she was pointing out?

4 A. Yes.

5 Q. Did that lead you to think, gee, maybe I better start
6 selling some stock so that we're not so close to having a
7 margin call?

8 A. It would have led me to find out what I had to liquidate,
9 if I had more stock to put in the bank to change the
10 percentage of loan to value, and I would look for liquid
11 assets or other assets I could encumber, which take -- I use
12 as collateral for another loan, and I would also look at the
13 Stanford CDs, because that's why we bought them in the first
14 place.

15 Q. Had -- were you already getting margin calls as of
16 October 1 of 2008?

17 A. It was soon. If not in that same area, within a week.

18 Q. We're going to talk about the loans in just a second, but
19 I want to digress for a minute and cover a couple of topics
20 with you.

21 When you were working up to this point in time, so let's
22 say up to October 1st of 2008, at any point in time did the
23 Stanford International Bank tell you that it was giving you
24 information that was somehow not available to other
25 depositors?

1 A. No, they did not.

2 Q. Did you ever, even if they didn't say something, ever
3 look at information and say, gee, I might be getting something
4 that is available to me but not available to somebody else?

5 A. I did not think so.

6 Q. Did you understand that you were in any way getting
7 special treatment from the Stanford International Bank?

8 A. I did not.

9 Q. Did you in any way -- I want to switch now to the SGC
10 side, the Stanford Group Company, the broker-dealer in these
11 negotiations that you already described for the margin
12 account. Did you understand you were getting any special
13 treatment with respect to that?

14 A. No.

15 Q. Could you look, please, in your binder at Trial Exhibit
16 027. And I apologize. It's PX 27. There's a tab in there
17 for 27.

18 A. Just plain 27?

19 Q. Just a plain 27. And Exhibit 27, PX 27, is a letter from
20 Mr. Espy to you, dated September 26, 2006. Right?

21 A. Yes.

22 Q. And in that letter -- first of all, about midway or a
23 little bit south of midway down the page, there is a reference
24 there to a group of six stock equity positions. Do you see
25 that?

1 A. Yes.

2 Q. Can you tell the jury whether those six equity positions
3 listed there are the same thing we've been referencing or
4 whether they are different, from what we've been loosely
5 calling the Liberty Media and affiliates' stocks?

6 A. This is some of them.

7 Q. And in his second bullet point, Mr. Espy is talking about
8 charging you an equity position at the rate of a penny or one
9 cent per share on all transactions for trades in those
10 positions. Do you see that reference?

11 A. Yes.

12 Q. Did you understand that was some sort of special deal
13 that you were getting at the time?

14 A. No. It's comparable to all our deals.

15 Q. Comparable to all of your deals meaning what?

16 A. HSBC charged roughly that. Merrill Lynch charged roughly
17 that.

18 Q. Had you told Mr. Espy, here's what HSBC, here's what
19 Merrill Lynch charges, et cetera?

20 A. I don't recall if I had at that point, but if that was
21 something that needed to be told or negotiated, I would have.

22 Q. Okay. Looking at the first bullet point, there is a
23 reference there to a rate grid and commission schedule in the
24 very first line. Do you see that?

25 A. Yes.

1 Q. When you received this letter -- there's not an
2 attachment to it. But when you received this letter, were you
3 provided with some sort of rate grid and commission schedule
4 when Mr. Espy sent this to you?

5 A. Yes, I had seen them before, I believe.

6 Q. And when he talks then in his first subbullet about the
7 Magness Family rate grid, do you see that reference?

8 A. Yes.

9 Q. Did you understand that you were getting a different --
10 the Magness family was getting a different rate grid than
11 perhaps other people who had made deposit?

12 A. It would have made a rate grid that Tommy would have
13 negotiated for us so that he could sell it to us.

14 Q. What do you mean, he could sell it to you?

15 A. He was the agent for Stanford.

16 Q. And what do you mean, when he could sell it to you?

17 A. He would get a commission when he sold anything for any
18 Stanford program.

19 Q. Did you know what his commission was?

20 A. I did not know.

21 Q. And did you understand that this was -- whatever he had
22 negotiated with you acting on behalf of Stanford, was
23 something that was different from what other depositors in the
24 Stanford International Bank CD program might get?

25 A. I did not know.

1 Q. Did he talk to you about whether this -- what's discussed
2 here about getting a particular rate that was tied to the
3 dollar amount that you put into Stanford International Bank
4 CDs?

5 A. Yes.

6 Q. And what did he talk to you about that?

7 A. The rate always got a little bit better if there was more
8 money in.

9 Q. And in your experience is it unusual that, in dealing
10 with a financial institution, you get a better rate if you put
11 more money in?

12 A. It's normal.

13 Q. In your experience, is it unusual, when you're dealing
14 with a broker/dealer, to get a better commission structure if
15 you have more stock deposited with the dealer?

16 A. That's true.

17 Q. I want to talk to you about the last bullet point on the
18 dark bullets on this page, and I'm just going to read it to
19 you and ask you to tell the jury, please, what this is
20 referencing.

21 The third bullet says, "Magness agrees to advertise
22 Stanford private wealth management on the side of at least one
23 of Mr. Magness's pro trucks at the Baja 500 and 1000 during
24 the 2006-2007 race season."

25 So, first of all, if you could tell the jury in a very

1 general way what this is referring to in terms of pro trucks?

2 A. Well, we have a team called Mango Racing in which we run
3 off-road trucks, mainly for our entertainment.

4 Q. And when you say you run off-road trucks, are you the
5 simply the sponsor or do you have some more active involvement
6 in the racing?

7 A. I'm the main sponsor, but I also drive.

8 Q. And is that something that you just started in the
9 September 2006 time frame that's -- that's the date of this
10 letter?

11 A. No, sir. I think we started that in 1994.

12 Q. Okay. Do you still do that today?

13 A. I still do it today.

14 Q. And then the reference here as to putting or advertising
15 on the side of at least one of those trucks at the Baja 500
16 and 1000, would you explain to the jury what that reference to
17 the Baja 500 and 1000 is?

18 A. Stanford advertises, just like everyone else, and had
19 agreed to enter an advertisement plan with us. It was, I
20 believe, he gave us \$20,000 to put his logo on the back of our
21 truck.

22 Q. And did you take the \$20,000?

23 A. Yes.

24 Q. Did you put his logo on the back of the truck?

25 A. Yes, I did.

1 Q. Is that the only logo that was on the truck?

2 A. No.

3 Q. What -- give the jury, if you could, some feel for what
4 the truck looks like with the logos on it.

5 A. Well, we have our Mango Racing right on the door. On the
6 tail end of the truck, we put Stanford Group. And where all
7 sponsors go is on the side below my racing. On the same door
8 it says Mango Racing at the top, and then has a bunch of
9 stickers of whoever's, you know, sponsoring you at the bottom.

10 Q. And I have to admit my experience is limited to watching
11 NASCAR on TV. But is there a priority in terms of the best
12 place to have a label on the truck and a place that might not
13 be so good, at least from your perspective?

14 A. The very first part of the door on the left-hand side
15 would be the lead-off person.

16 Q. And is that where the Stanford logo went?

17 A. No.

18 Q. And where did it go again?

19 A. It was on the rear fender.

20 Q. And how does that relate in terms of the hierarchy of the
21 best spot on the truck to be, all the way down to what the
22 worst might be?

23 A. Most people never put their logos on the very back.

24 Stanford logo was fairly big, and it really needed to be on a
25 big spot, and that was the only spot we had.

1 Q. Why do you say most people never put it in that spot?

2 A. Because everybody looks for the sponsors on the door.

3 Q. As long as we're talking about Stanford giving you
4 something, in terms of the commission arrangement that we've
5 discussed, other than agreeing to charge you a penny a share
6 on the trades in these six stocks, was there anything else
7 Stanford gave you in terms of that broker/dealer stock
8 commission arrangement?

9 A. No.

10 Q. And then in terms of the rate grid that we discussed in
11 the Stanford CDs, other than giving you the rate that was
12 referenced in that grid and this letter, was there anything
13 else Stanford gave you in exchange for that?

14 A. No.

15 Q. The last question on this letter, sir. The letter refers
16 to what will happen if you put in more money by December 31st
17 of 2006. Do you see that?

18 A. Yes.

19 Q. And we saw yesterday when we looked at Exhibit No. 9,
20 that on October 31st of 2006 you put in \$30 million from GMIT.
21 Do you remember that?

22 A. Yes.

23 Q. And were you doing that because of this type of offer
24 that Mr. Espy extended in September of 2006?

25 A. Yes, because of that.

1 Q. You heard Mr. Sadler talk about you having special access
2 to people in the bank. Do you recall that in his opening?

3 A. Yes.

4 Q. Did anyone at the bank ever tell you that you were
5 getting special access?

6 A. No.

7 Q. Did anyone at Stanford Group Companies ever tell you
8 something to the effect you were getting special access that
9 no one else gets?

10 A. They did not.

11 Q. Okay. Let's go to the loans. And just to put a date
12 reference on it for you, if you could look, please, at PX 080
13 in your binder. And do you see at the very top of this
14 document -- well, let's do this. Is this document or these
15 documents marked as PX 80 documents?

16 Are these documents marked as PX 80, the loan documents
17 for the first loan obtained from Stanford International Bank?

18 A. Yes.

19 Q. And if you would look, sir, at the various signatures
20 there, they are -- there's one on the first page, one on the
21 second page, one on the third page, and I'm going to skip four
22 just because it's very, very faint, but are those your
23 signatures?

24 A. Yes, sir.

25 Q. And the documentation, let's look at the second page, for

1 example. That is the promissory note into which you entered
2 with Stanford International Bank for that first loan for \$25
3 million. Right?

4 A. Yes.

5 Q. Okay. I wanted to give you this as a starting point to
6 give you the date, and the date is October 10th.

7 A. Yes.

8 Q. Now, we looked before my digression there at the October
9 1, '08 Mango Five minutes and talked about your views on
10 selling stock and Ms. Dokken's reports. Do you remember that?

11 A. Right.

12 Q. Did something happen between October 1 when there was
13 that Mango Five meeting and October 10 that led you to a place
14 where you were borrowing \$25 million from Stanford
15 International Bank?

16 A. Yes. The cable stocks that we had were trompled.

17 Q. And did you -- when did that start?

18 A. Roughly that first week in October.

19 Q. Okay. Was there -- just for those of us who are not in
20 the stock market a lot, was there something in particular that
21 you, as being a stockholder and a significant stockholder,
22 thought was the cause of the decline in the stocks?

23 A. Yes. The same people that had dropped the bank shares
24 and the builders' shares, they are called the shorts, the
25 shorts, finally looked over and looked at the cable companies,

1 and they all came in like a horde of locusts.

2 Q. And when they all came in like a horde of locusts, did
3 that have any impact on the margin borrowing that you had
4 undertaken using that stock as collateral?

5 A. When they put a short on your -- on your stock and enough
6 of them do it, it drops the price significantly.

7 Q. And when the price drops significantly, does that impact
8 your margin borrowing?

9 A. Pretty soon my percentage loan-to-value is upside down.

10 Q. And in this period of time from October 1 to October 10
11 of 2008, were you starting to get margin calls?

12 A. Yes, I was.

13 Q. Did you have money to pay those margin calls?

14 A. No, I did not.

15 Q. Did you look at some of the -- and I'll go through -- let
16 me ask it this way. Did you look, for example, at whether the
17 Fortrust asset was something you could use to generate money
18 to address margin calls?

19 A. Fortrust did not have enough income to justify a loan.

20 Q. Did you look at perhaps liquidating Fortrust to try to
21 get money to honor these margin calls?

22 A. To try to liquidate Fortrust would take over a year.

23 Q. Why did you say that?

24 A. Because it's the largest asset.

25 Q. Did you -- recognizing that there were those issues with

1 trying to get money out of Fortrust, did you look at getting
2 money out of the ranches that we see reported from time to
3 time here?

4 A. Yes.

5 Q. And what did you do in that regard?

6 A. Just to get an appraisal would take 30 days, if not 60
7 days.

8 Q. Did you have 30 days to come up with money to address the
9 margin calls?

10 A. By the time they get ahold of you, you usually have two
11 days left.

12 Q. And was that the case in early October with the ones you
13 were facing?

14 A. I believe I had three days a few times and two days a few
15 times and 24 hours a few times.

16 Q. Did you look at any of your other assets to see if --

17 A. We looked at all the assets.

18 Q. Did you look to see -- do you have stock, stock that is
19 not encumbered by a margin loan?

20 A. We had no stock in a vault. It is all in -- as
21 collateral somewhere.

22 Q. And did you look at whether, just faced with a margin
23 call, best thing to do is either sell the stock or let the
24 bank take it but at least get the loan taken care of?

25 A. Right.

1 Q. And why not pursue that course?

2 A. Can you ask the question again?

3 Q. Sure. Looking at an option of saying, we have this stock
4 that's collateral, maybe the best way to pay off the margin
5 loan is either let the bank take the stock or we sell it and
6 pay the bank? Why did you not go that route?

7 A. Well, it's -- you look at what your assets are and the
8 risk to -- to the upside. The upside on stock, let's say the
9 stock was 50 percent down. If it was \$100, it's now \$50, it
10 goes back to \$100 are pretty great with the history that's
11 proven that, including this recent history; that if you -- if
12 you keep the stock, you have a chance of getting 100 percent
13 because you basically look at it as being worth \$50 and it was
14 worth a 100, chances are it's going to go back to a hundred.

15 Whereas, the CDs, because that's where you're going with
16 the question, is the CDs were basically a nine percent gain.
17 No matter what you did, they were nine percent year after
18 year. It'd take ten years to get that same position that you
19 probably are going to get back in a year, and which history
20 proved was a fact.

21 Q. How did you go about then approaching the bank, Stanford
22 International Bank, excuse me, approaching SIB in the first
23 part of October about trying to get money?

24 A. We sent Tommy in.

25 Q. And --

1 A. He negotiated for us.

2 Q. Did you obtain any information during the process of that
3 negotiation there was some issue with the bank having money
4 available to lend to you?

5 A. No.

6 Q. When you organized the first loan, the \$25 million loan,
7 setting aside the agreement to pay the loan and to repay it
8 with interest, did you give anything else to the bank in
9 exchange for that loan?

10 A. I did not.

11 Q. Did you receive anything from the bank other than
12 obviously the loan proceeds?

13 A. No.

14 Q. What did you do with the loan proceeds?

15 A. I used it to pay down margin debt.

16 Q. Going then to, let's say, October 11th, the next day, did
17 having the \$25 million and having it to pay down margin debt
18 solve your financial issues?

19 A. They just kept coming.

20 Q. I'm sorry. Who is the they?

21 A. The problems just kept coming, the stock kept falling.

22 Q. Okay. And in response to having the stock keep falling,
23 did you take any action?

24 A. We secured more loans.

25 Q. Okay. And when you secured more loans, how did you go

1 about doing that?

2 A. With the CDs, the Stanford CDs.

3 Q. Okay. Were you involved in conversations with the bank
4 about conditions that it would need to extend loans for
5 additional money?

6 A. I was not on the phone, but I was informed.

7 Q. Okay. And in terms of being informed, what was the
8 general structure of what you needed to do to get more money
9 from the bank?

10 A. Well, to get the complete large loan, we had to first pay
11 back the 25 that we already borrowed.

12 Q. Okay. Well -- okay. Recognizing that the 25 you had
13 already borrowed had been paid the margin lenders, did you
14 have 25 million to pay back?

15 A. We had 25 million of accumulated interest that had not
16 been paid to us in Stanford Bank, and we made paperwork to
17 allow that money to be used for the 25. But it was short by
18 three-quarters of a million dollars that we had to borrow from
19 another source to facilitate that payment.

20 Q. Why did you say you had to borrow that from another
21 source?

22 A. To make 25 million, we needed 720,000 more.

23 Q. Would you look, please, in the binder again, at PX 081?
24 You got that document, sir?

25 A. Yes.

1 Q. And it's actually three documents. Excuse me, I
2 misspoke. But could you tell the jury, please, what these
3 documents are?

4 A. These are the CD numbers referenced in the loans.

5 Q. And do you see that in the first sentence, the first
6 letter, as an example, it says, please transfer all of the
7 accrued interest to date to that particular account?

8 A. Yes.

9 Q. And are these the transactions you've just described more
10 generally to us about paying off the \$25 million loan?

11 A. They are.

12 Q. Now, at this point in time, let's say October 14th of
13 2008, had you been provided any factual information that led
14 you to believe there might be some problem with the bank's
15 ability to loan you money?

16 A. No.

17 Q. Had you been given any information as of October 14,
18 2008, that led you to change that risk assessment that you
19 described for us --

20 A. No.

21 Q. -- in your view as to what the CDs were?

22 A. No, they did not.

23 Q. Did Mr. Espy relay any information to you, wearing his
24 Stanford Group Company hat as its employee, about what was
25 going on at the bank as it was addressing your request for

1 money and your request that the bank pay off at least the big
2 piece of the loan using accrued interest?

3 A. No.

4 Q. And what -- over what span of time did the shorts keep
5 coming that forced you to require more cash to address margin
6 calls?

7 A. Basically it was from the first week in October to the
8 middle of December.

9 Q. Let's look, sir, if you would, please, at PX 092. And
10 these are minutes. I'd like to skip the agenda and start with
11 the second page, please. Are you with us?

12 A. Yes.

13 Q. Great. And if you could look, please, at item No. 4, and
14 let's start with the first paragraph.

15 In this paragraph, it begins with a report regarding Mr.
16 Espy at some point after October 1 trying to redeem the
17 certificates of deposit, and he says there that redemption
18 would not be possible at this time. Do you see that?

19 A. Yes.

20 Q. Did that statement give you concern?

21 A. No.

22 Q. Why not?

23 A. Well, the certificates had a life expectancy of whatever
24 was written on them. Sometimes it's a maturity date, and
25 that's the only date that they have to pay you money back.

1 Any time before that date, they have -- it's up to their
2 discretion how they do it, but their -- their program that
3 they usually use is -- is a penalty for early -- early
4 redemption or a loan at 80 percent of the value of the CD or
5 they can just not do anything at this time.

6 Q. In terms of this report in the minutes, the next thing
7 that is reported here after that statement is Mr. Magness
8 inquired how his risk could be reduced to the exposure of
9 these certificates of deposit. Do you see that next sentence,
10 sir?

11 A. Yes.

12 Q. And would you tell the jury what you were saying there?

13 A. Well, it is -- it is -- there is always a certain amount
14 of risk involved, and even after we had gotten the loans,
15 there was still 20 percent of our asset that was unused, which
16 was roughly \$17 million, which relates to \$34 million worth of
17 my collateral.

18 Q. And that's footing back to the concept we discussed
19 yesterday that you borrowed the money for the CDs?

20 A. Right.

21 Q. This goes on to talk about Mr. Espy reporting that you
22 were able to borrow 80 percent of the face value of the
23 certificates or roughly \$63 million. Do you see that?

24 A. Right.

25 Q. Did that give you any comfort in dealing with the bank

1 that you got a payment of \$63 million?

2 A. Well, they paid the money immediately.

3 Q. Was there any discussion with the bank about needing more
4 time to go find money to pay you?

5 A. No.

6 Q. Was there any delay in getting the money to you that
7 caused you any concern about, gee, there might be a problem
8 with the bank?

9 A. No.

10 Q. Was there anything about this conversation in the period
11 after October 1st of 2008 that gave you a concern that there
12 was something wrong with the bank?

13 A. There was nothing.

14 Q. When you asked here how your risk could be reduced to the
15 exposure to the certificates, did anybody offer you
16 suggestions as to how you could reduce your risk?

17 A. No.

18 Q. Did you task anyone, kind of like we saw earlier where
19 you asked Ms. Dokken to approach Mr. Espy and Mr. Wilk, did
20 you do that kind of approach to ask somebody else, see if
21 there was a way to do that?

22 A. No.

23 Q. Was there anything about this information provided to you
24 at least by the December 5, 2008 meeting for which these are
25 the minutes, that led you to think something to the effect of

1 I should follow up and ask more questions --

2 A. No.

3 Q. -- of the bank? Did you at any point between October 1
4 and December 5 of 2008 ask the bank for additional information
5 about its operations or its investments?

6 A. I don't think so.

7 Q. Why not?

8 A. I think we at that point were still trying to keep out of
9 the way of the margin calls. I think we were pretty much done
10 paying margin calls by December, at least by the middle of
11 December.

12 Q. If you could look, please, at paragraph No. 2 on the same
13 page of the minutes here where you report that there's been no
14 significant sales of stock since October 1 due to the severe
15 decline in prices. Do you see that?

16 A. Yes.

17 Q. How does that dovetail with the -- excuse me. Were there
18 any sales that took place that were not sales done by GMIT,
19 GMAG, or Magness Securities during this period?

20 A. I believe there were sales. This report refers to
21 diversification. At that particular time we weren't trying to
22 diversify.

23 Q. I see. And is -- during the same time period from
24 October 1, '08 forward, were there sales of stock to address
25 margin calls?

1 A. Yes, there were.

2 Q. And what was -- how did those sales take place, just in a
3 general way, not on a sale-by-sale basis?

4 A. I was usually asked to cure the margin call which
5 generally would be I would have the rights to try to sell my
6 stock, if I needed to sell stock, and if I didn't sell stock
7 fast enough to -- to justify prudence, they would step in and
8 sell it for me, whoever the facility was that was under the
9 margin call.

10 Q. The lender, in essence.

11 A. The lender.

12 Q. Let's -- going forward again in time, sir, if you could
13 look at PX 114, please. Excuse me for one second.

14 Again, if you could skip over the agenda and look at the
15 series of minutes from the April 9, 2009 investment committee
16 meeting of Mango Five, and let's just start by seeing if it
17 foots back on the first paragraph. Do you see that your first
18 order of business was to approve the minutes from that
19 December 5, 2008 meeting.

20 A. Yes.

21 Q. So that tells us there wasn't likely an intermediate
22 meeting that took place between December and April. Is that
23 fair?

24 A. Yes.

25 Q. Then if you could look at paragraph 2, please, which is

1 now a report on diversification. There is -- there are two
2 statements here that I am hoping you can help us reconcile.

3 Ms. Dokken -- and I'm going to paraphrase, not quote.
4 Ms. Dokken begins by reporting, according to these minutes,
5 that there had been no significant sales of Liberty and its
6 affiliates' stock, given the depressed prices. But then she
7 goes on to say -- she indicated that approximately 150,000
8 shares of Liberty has been sold during the reporting period
9 and the proceeds had been used to pay down debt.

10 So first she says there's no sales, then she says there's
11 sales. Can you help us understand what's going on here?

12 A. It is the same diversification report where there was no
13 sales to diversify, but then she indicates 150,000 shares were
14 sold for margin call.

15 Q. And in terms of those 150,000 shares, would that follow
16 the process that you just described for us where it might be
17 you, it might be the bank, but you were selling to address
18 margin?

19 A. Yes, it would.

20 Q. The discussion goes on to talk about the -- I'm still on
21 paragraph 2 -- the effects of the financial crisis in late
22 2008, but then follows with a recommendation about either stop
23 loss triggers, target prices, or options. Do you see those?

24 A. Yes.

25 Q. Did you follow through on any of those recommendations

1 following the April 9, 2009 meeting?

2 A. I don't think so.

3 Q. By April of 2009, what was the status of Stanford?

4 A. It had been in receivership.

5 Q. And when was the first time you had factual information
6 that led you to believe there might be some sort of problem
7 with the Stanford International Bank?

8 A. Constructively, it would have been the 18th of February,
9 '09.

10 Q. And why do you pick that date?

11 A. That's the date that the Receiver was put in.

12 Q. Okay. Well, before the Receiver was appointed, did you
13 at least have some concerns about Stanford International Bank
14 that popped up based on facts that you knew?

15 A. Just from what we saw on TV, and I don't recall what the
16 actual dates were.

17 Q. Can you give us a range of when you first started to
18 think there might be some issues with Stanford International
19 Bank?

20 A. It would have been in, I think, basically January,
21 probably started thinking.

22 Q. January of which year?

23 A. Of '09.

24 Q. And in January of '09, did you have any information that
25 led you to believe that Stanford International Bank was

1 insolvent?

2 A. No.

3 Q. In January of '09, did you have any information that led
4 you to believe that it was a fraud?

5 A. No.

6 Q. In January of 2009, did you have any information that led
7 you to believe you need to follow up and ask more questions
8 about whether it was insolvent?

9 A. We did ask questions, and I don't remember if it was
10 about it being insolvent or not. They did redeem one of our
11 associate's, Steve Knudson's, CDs in January of '09.

12 Q. And what did that tell you about the bank in January of
13 '09?

14 A. It was still paying out money.

15 Q. Did or was the CD that was redeemed in January of '09,
16 the 11 and a half million dollar CD that we looked at, as
17 something that was arranged earlier in 2007?

18 A. It was still in CDs form.

19 Q. Okay. At any point in time through, let's say, December
20 of 2008, did you give consideration to trying to cash in or
21 asking Mr. Knudson to cash in that 11 and a half million
22 dollar CD?

23 A. It was discussed. But at that point the most of the
24 bleeding had stopped, and it was my decision to just leave his
25 intact.

1 Q. Did the discussion that you've referenced have anything
2 to do with concerns about the financial stability of the
3 Stanford International Bank?

4 A. It did not.

5 Q. When did you first learn that Stanford International Bank
6 was part of a Ponzi scheme?

7 A. I didn't want it to be true even in February 18th of '09.

8 Q. And was that the date that you first learned that it was
9 at least alleged to be a Ponzi scheme?

10 A. That was the first date that it was said to be a Ponzi
11 scheme.

12 Q. What did you mean when you said, you didn't want it to be
13 true?

14 A. I hoped it was a downturn in the market and hoped it
15 would be identified one way or another, redeemed.

16 Q. I'd like you to look in the binder again, sir, at two
17 documents, and let's start with the one that is PX 482. It is
18 way in the back. Let me know when you find that.

19 A. I got it.

20 Q. That is an abbreviated form of the tax return for GMIT.
21 Right? As a matter of fact, let's look at your personal
22 return instead. If you could look at 483. It will just be
23 easier to walk around in. Do you have 483?

24 A. Yep.

25 Q. And that is a copy of your and your wife Sarah's personal

1 income tax return. Correct?

2 A. Yes.

3 Q. And if you could look, sir, at the very last page of the
4 document. It would be page 97 if we had the whole beast, but
5 we are using an abbreviated version to make it easier for
6 folks to look at it. Do you have that page, sir?

7 A. Yes.

8 Q. And this is part of your and your wife's federal income
9 tax return. Correct?

10 A. Yes.

11 Q. And if you would look on that -- the information that's
12 typed on that page, in the third line -- excuse me, the fourth
13 line, it says, and I'm going to read you a sentence there
14 beginning with the word "due," it says, "Due to the
15 investigation of Stanford, which was active in 2008, the
16 taxpayer was concerned that his CD principal was in
17 jeopardy." Do you see that reference?

18 A. Yes.

19 Q. What is the investigation of Stanford active in 2008
20 that's being referred to there?

21 A. It's talking about the Receivership that actually is
22 about the month 2008, concerning the month 2008, and is still
23 underway by this time, which is probably October of 2008 or
24 '09, 2009 at the time of this signing of our IRS thing.

25 Q. And I thought you told us the Receiver was --

1 A. Yes.

2 Q. -- February 18th of '09?

3 A. But this was written in '09.

4 Q. So how does the December '08 investigation tie into the
5 Receivership in '09 from your perspective?

6 A. Well, it's all related to how we do taxes, and there's a
7 question obviously how we do taxes for '08 since we took out
8 loans reference -- I remember talking about quite a few times
9 that did we take the interest payment at which point we would
10 owe taxes on the interest gained, the 25 million, we would owe
11 taxes if we took it as interest payment. But if it was
12 principal, it would be just a return of principal.

13 Q. I'd like to talk to you about one more brief topic, and
14 then I'm going to let Mr. Sadler ask you questions or the
15 Judge will allow Mr. Sadler to ask questions.

16 You heard Mr. Sadler in his opening refer to what
17 happened here as being a made-up story, did you not?

18 A. Yes.

19 Q. Is that accurate?

20 A. I'm not a liar.

21 Q. And have you made up any of this story in an effort to
22 try and pull one over on the Receiver or the Court?

23 A. I have not.

24 Q. He also told the jury that Stanford International Bank
25 provided you with facts that it was lying to cover up its own

1 fraud. Do you remember hearing that?

2 A. Yes.

3 Q. Did to your knowledge, based on what you received from
4 the bank, did you ever get those types of facts?

5 A. No.

6 Q. Did Juan Rodriguez-Tolentino at any point in time in the
7 conversations that you had with that gentleman ever tell you
8 that he was lying, selling you a bill of goods?

9 A. He did not.

10 Q. And did you at any point in time, prior to the January of
11 2009 date that we've already discussed, have any factual
12 information that all of this was a cover-up of some sort of
13 huge financial fraud?

14 A. I did not.

15 Q. Thank you, Mr. Magness.

16 MR. PETRIE: Thank you, Your Honor. I have no
17 further questions.

18 THE COURT: All right. I think that brings us to
19 our morning break. Let's take about 20 minutes and we'll see
20 you-all back.

21 (Whereupon, the jury left the courtroom.)

22 THE COURT: Anything else we need to take up?

23 MR. SADLER: I just, Your Honor, wanted to hand up
24 our copy of the proposed errata sheet instruction.

25 THE COURT: Thanks. Anything else?

1 MR. SADLER: No, sir.

2 MR. PETRIE: No, sir. Thank you.

3 THE COURT: All right. See you-all in 20.

4 (Brief recess.)

5 THE COURT: Are we ready for the panel?

6 MR. SADLER: Yes, sir.

7 THE COURT: Let's bring them in.

8 (Whereupon, the jury entered the courtroom.)

9 THE COURT: Be seated.

10 We'll go till 12:30 and take our lunch break then.

11 The Receiver may proceed.

12 MR. SADLER: Thank you, Your Honor.

13 CROSS EXAMINATION

14 By Mr. Sadler:

15 Q. Good morning, Mr. Magness.

16 A. Good morning.

17 Q. I have put in front of you, because we are going to be
18 referring to it, a small black binder are some exhibits and
19 then that's a copy of your deposition.

20 A. Okay.

21 Q. There's a couple of things we need to start with because,
22 as Judge mentioned briefly, this case started in a bit of an
23 unusual posture. So I want to first start by asking some
24 things about you.

25 Now, as I understand it--I've read your deposition--this

1 investing that you have done and done very well at, you've
2 been doing that since the late '80s. Is that right?

3 A. Yes.

4 Q. Borrowing money, using that money to buy stocks, make
5 other investments, and making some good decisions, and that's
6 grown very well for you. Right?

7 A. Yes.

8 Q. And that's, whatever that is, 20-some-odd years really or
9 more. Right?

10 A. I guess so.

11 Q. Or 30, I guess?

12 A. Closer to 35.

13 Q. And nothing wrong with it, but you have done very well,
14 sir. You've made a lot of money. Right?

15 A. A bit.

16 Q. Okay. And there are some financial terms that have been
17 thrown around we are going to talk about some, but you know
18 your net worth, I'm sure, is in pretty good shape, isn't it?

19 A. At this point.

20 Q. And net worth--I know some other financial terms have
21 been thrown around--you know what that means.

22 A. Yes.

23 Q. It's whether -- it's just what are your assets, what are
24 your liabilities, and what does that come out, does that come
25 out positive or negative. That's net worth. Right?

1 A. Right.

2 Q. Now, in the time frame we've been talking about in the
3 2008, period which is what I'm going to focus on, even during
4 that period of time with all the market troubles and
5 everything, you held assets that were worth hundreds of
6 millions of dollars. Right?

7 A. Yes.

8 Q. Okay. And you understand -- you understood then, you
9 certainly understand now, but you understood then more than
10 just the basics of finances. I mean, you understand a lot
11 about high finance, don't you?

12 A. Some.

13 Q. Well, I mean, yesterday and today I wrote some of them
14 down. I mean, I heard you talking about arbitrage, synthetic
15 dividend, short-selling bid and ask. I mean, you are pretty
16 conversant with high finance, aren't you?

17 A. Some.

18 Q. All right. Well, you are a pretty smart fellow and you
19 know how to ask intelligent questions about financial matters,
20 don't you?

21 A. Not always.

22 Q. Not always. Now, also during this time period, as we've
23 seen from some of these meeting minutes we are going to visit
24 about, you not only held a lot of stock, but you had ranches,
25 you had companies, and you dealt with many different banks.

1 Right?

2 A. Yes.

3 Q. I mean, am I overselling you or is it fair to say you are
4 a smart, sophisticated businessman?

5 A. I would say that I try to employ people that are.

6 Q. Okay. But I'm asking about you. Do you consider
7 yourself an intelligent, sophisticated businessman?

8 A. That and a little bit lucky.

9 Q. Lucky. All right.

10 Now, you mentioned advisors. And thank you for that
11 because I was just about to ask you. In the time frame I'm
12 going to focus on, which is October '07 to about October '08,
13 maybe a little after that, it's true that you had lawyers and
14 advisors helping you with these various financial things,
15 including the Stanford stuff. Right?

16 A. Yes.

17 Q. Some of these people -- and we're going to be a little
18 bit more clear about who they are and what their roles were,
19 the Mr. Sutton, Ms. Dokken, Mr. Wilk, Mr. Armstrong, these are
20 all people that you hired to help you with all of your various
21 financial holdings in different ways. Right?

22 A. Yes.

23 Q. Okay. Now, being in the investing business for, you
24 know, going on 30 years, I take it you would agree with me
25 that having access to timely, accurate information about your

1 investments, about what the market's doing, that's pretty
2 important, isn't it?

3 A. Yes.

4 Q. Conditions can change rapidly in the market. Right?

5 A. Yes.

6 Q. New information can come out that can, you know, send the
7 stock soaring or send it over the cliff or send it all sorts
8 of places. You are familiar with that?

9 A. Yes.

10 Q. Okay. So stale information, old information, this is
11 what the market was doing six months ago, maybe it's
12 interesting but it's not really the kind of information you
13 really want if you are making big decisions about a lot of
14 money, is it?

15 A. Sometimes.

16 Q. All right. So that's a little bit about who you are. I
17 want to be sure that we understand, as we go through the
18 evidence together, that we understand what this case is about.

19 Now, do you understand that the Receiver's claim against
20 you is for taking cash out of the bank in October 2008? Do
21 you understand what this lawsuit is about? Right?

22 A. Yes.

23 Q. All right. So I take it you also understand you're not
24 being sued for making your investments back in '04 and '05.

25 You are not being sued for that. You understand that. Right?

1 A. Yes.

2 Q. Okay. Okay. And if I understand it correctly, and --
3 and, look, you've told us about, you know, trips back I think
4 you said 2002 was when you first went down to -- and met Mr.
5 Stanford, stayed at the villa? Wasn't it about 2002?

6 A. I believe so.

7 Q. Okay. And you made some trips, I just heard about, to
8 the racing, where there was some agreement with Mr. Stanford
9 about advertising on the racing. You understand you're not
10 being sued for that. Right?

11 A. Right.

12 Q. Okay. This is about you taking cash out of the bank.
13 Are we clear on that?

14 A. Yes.

15 Q. Okay. Now, you understand, I assume, that the way things
16 are right at this moment is the Court has already found that
17 the cash you took out of the bank, that those were fraudulent
18 transfers. You understand that.

19 A. Yes.

20 Q. And you also understand that the Court's already found
21 that when the bank made those transfers to you, gave you that
22 cash, the bank did it with intent to defraud its creditors.
23 You understand that.

24 A. I understand that.

25 Q. Okay. Okay. And I want to be clear, you understand that

1 what the jury's here to judge is basically what you knew and
2 when you knew it at the time you took the cash out.

3 A. Yes.

4 Q. That's kind of the big question here. Right?

5 A. That's it.

6 Q. Okay. Okay. Now, let's be clear about something else
7 that may be a little confusing. You had two different
8 financial relationships with two different parts of the
9 Stanford organization. You had the whole CD, you'd invested
10 the CDs with the bank which was down in Antigua. Right?

11 A. Yes.

12 Q. And then you had another relationship with a company
13 called Stanford Group Company, which was the ordinary
14 broker/dealer like, you know, a Charles Schwab or Merrill
15 Lynch that was headquartered down in Houston. Right?

16 A. Yes.

17 Q. All right. And the CDs were not kept down in Houston.
18 Right?

19 A. Correct.

20 Q. So you had your CD relationship with his bank down in
21 Antigua, and then you had a stock trading margin account and
22 so forth with his broker/dealer that was headquartered in
23 Houston. Two different things. Right?

24 A. Right.

25 Q. So again, just to be clear, there was some discussion

1 that Mr. Petrie went through with you in the notes about a
2 loan facility with Stanford back in, I think it was, '07 and
3 all that.

4 That doesn't have anything to do with the CDs, does it?

5 A. No.

6 Q. All right. That's all about having another margin
7 account, just like you had margin accounts at Merrill, HSBC,
8 U.S. Bank, and maybe some others I'm forgetting. Right?

9 A. Right.

10 Q. Okay. Let's focus on the first part of the year between
11 October '07 and October '08. All right?

12 MR. SADLER: So if we could pull up Plaintiff's No.
13 134.

14 Q. (BY MR. SADLER) And you have it there in your book. And
15 you're welcome to look at the paper or the screen, whatever's
16 easier for you, Mr. Magness. Just whatever's easier for you.

17 Okay. And we skipped past the agenda, and we're now
18 looking at the minutes of your Mango Five board in October 1,
19 2007. Are you with me?

20 A. Yes.

21 Q. Okay, sir. Now, I want to go to the next page -- well,
22 actually hold on. I got ahead of myself. So let's first talk
23 about who is present.

24 Obviously you were present, Gary Magness. We see that
25 there. Ray Sutton is also present for this meeting. Right?

1 A. Yep.

2 Q. And Ray Sutton is a lawyer that works for the Baker
3 Hostetler firm. At this time he did. Correct?

4 A. Yes.

5 Q. And you hired him and his firm as one of the people that
6 were going to help you with various aspects of your
7 investments. Right?

8 A. Wrong.

9 Q. I'm sorry?

10 A. He's an estate lawyer and an ex-lawyer litigator. He's
11 not a finance guy. He just is somebody uninterested in
12 selling me something.

13 Q. And he is acting as one of your advisors sitting on the
14 Mango board. Right?

15 A. That's right.

16 Q. Okay. You took advice from him. Right?

17 A. Yes.

18 Q. He showed up at, I think, every one of the meetings we're
19 going to talk about from October all the way from April '09.
20 He was at every one of them. Right?

21 A. Yes.

22 Q. Okay. And Mr. Knudson, he is the gentleman here in the
23 back of the room -- not back of the room but right here
24 (indicating). Right?

25 A. Yes.

1 Q. Okay. And Mr. Knudson has worked for you for a very long
2 period of time, has he not?

3 A. Well, we've been partners a long time.

4 Q. Okay. More than ten years, 20 years?

5 A. Yes.

6 Q. Okay. All right. And then Ms. Dokken is at this
7 meeting. And as you described her, she was your long-time
8 chief financial officer, I think just retired back in 2015.
9 Is that right?

10 A. Yes.

11 Q. Okay. And then, finally, we have Mr. Armstrong. Just so
12 we're clear who he is, he's another lawyer. Right?

13 A. Yes.

14 Q. And he's got a little bit different job. He is helping
15 you with -- I may use the wrong word so please correct me.
16 The fact that this trust is domiciled in Nevada, there are
17 certain legal requirements you have to meet, and he is helping
18 you with that piece of this. Is that fair?

19 A. Yes. And he's also a trust attorney.

20 Q. A trust attorney. Right?

21 A. Yes.

22 Q. But, correct me if I'm wrong, I believe Mr. Armstrong, by
23 the contract you had with him, he's not being paid to give
24 investment advice, if I understand that right.

25 A. That's right.

1 Q. Okay. Okay. So now we know who's here.

2 Now, let's go then, if we could, to page -- and your
3 meeting -- one other question. I'm sorry. It says your
4 meeting at the Wynn resort that's, the big casino in Las
5 Vegas. Is that right?

6 A. That's right.

7 Q. Did you guys rent a room, rent a conference room? How
8 did that work?

9 A. A big room. It's a regular hotel room.

10 Q. Like a hotel suite?

11 A. Yes.

12 Q. Where you had plenty of room to meet and stuff?

13 A. Right.

14 Q. So let's go to page 2 of this document, and I first want
15 to direct your attention to the very top paragraph. So you
16 guys are meeting in October of 2007, and this is one of
17 several items on the agenda.

18 And what we're looking at at the top is Ms. Dokken is
19 giving you a report. And she's reporting there, is she not,
20 that one of the things going on in this time is that you had a
21 margin loan with Merrill Lynch? Right?

22 A. Yes.

23 Q. And you were using \$50 million to reduce a debt you owed
24 to HSBC. Right?

25 A. Yes.

1 Q. And I'm just using this as an illustration. So you've
2 got 50 million in available credit, at least 50 million
3 available credit at Merrill Lynch, and for whatever reason
4 we'll talk about in a minute, you're just moving that over and
5 paying down your debt over at this other bank. Right?

6 A. That's right.

7 Q. Okay. And, I mean, this is kind of routine throughout
8 this time frame, isn't it?

9 A. No.

10 Q. Not routine?

11 A. No.

12 Q. I thought you told us, and maybe I misunderstood, that
13 from time -- you kept several banks -- margin accounts at
14 several banks. And one of the things you would do is you
15 would negotiate better terms at this bank or that bank, and if
16 you could negotiate better terms, you might move money from
17 this bank to that bank. Right?

18 A. As I said, if they ratcheted us up, then we would talk to
19 them about taking us back down even with the other banks or we
20 would pay them off. This is exactly that. They are being
21 paid off because they refused to lower their interest rate,
22 which they did in about 50 days from this point.

23 Q. Exactly. Exactly. So all you're doing, you've got the
24 50 million there, that's cash money. Right?

25 A. Right.

1 Q. And you're moving that 50 million cash out of one bank to
2 another bank for good business reasons that you just
3 described. Right?

4 A. That's the only time we had to do it.

5 Q. Okay. Okay. But certainly if you get better terms at
6 one bank than another bank, that might be a good reason to
7 move your business or move your cash from one bank to another
8 bank. Right?

9 A. Right.

10 Q. Okay. And I assume you would then agree with me, as a
11 good businessman, if you had two banks where you had money and
12 you came to think that one of those banks was an unsafe place
13 to have your money, you would move that money from the unsafe
14 bank to the safe bank, wouldn't you?

15 A. I hadn't had any history of that, but that's a good idea.

16 Q. Sure. You'd do that, wouldn't you?

17 A. I betcha I would.

18 Q. Okay. Now, we now need to go back and -- there was some
19 documents you and your colleague, your attorney, skipped over
20 a little too quickly, and I need to go back to them.

21 So let's look at Plaintiff's Exhibit No. 133. Now, this
22 is the same date. Right? October 1 meeting in Las Vegas.
23 Right, sir?

24 A. Yes.

25 Q. And this wasn't entirely clear. So I think the way this

1 worked--let me just say it and you tell me if you agree with
2 me--you guys would meet not exactly quarterly, but you would
3 meet close to that.

4 And when you would meet, you would have two separate
5 meetings that you then had two separate sets of minutes for.
6 You would have a board meeting, and then you would have an
7 investment committee meeting. Have I got that basically
8 right?

9 A. Yes.

10 Q. Okay. But it's the same group of people. It's just you
11 do the board's business and then you adjourn and then you do
12 the investment committee's business and then you go do
13 whatever you are going to do.

14 A. Exactly.

15 Q. Okay. And Mr. Sutton is there for both of those.

16 A. Yes.

17 Q. And you are obviously. Right?

18 A. Yes.

19 Q. And Mr. Knudson for both?

20 A. Yes.

21 Q. Mr. Armstrong is there, sometimes participating, though,
22 by phone. Right?

23 A. Right.

24 Q. And not always but frequently Ms. Dokken is invited.
25 Right?

1 A. Yes.

2 Q. And Mr. Espy is invited. Is that right?

3 A. Not always invited. Sometimes he's present.

4 Q. Okay. And then there's another fellow that I've heard
5 the name--we're going to talk about him--Chuck Wilk.

6 Sometimes he is at these meetings?

7 A. Right.

8 Q. Okay. Now, if we go to the next page -- and I guess
9 actually it's not the next page. It's paragraph 3 -- page 3,
10 paragraph 7. Excuse me.

11 So October '07, you and the members of the board, you
12 tell Ms. Dokken, go get Mr. Espy to prepare a full report that
13 we want to talk about at the next meeting on the CD program.
14 Right, sir?

15 A. Yes.

16 Q. And just to be crystal clear, the CD program in Antigua.
17 It doesn't say Stanford, but that's exactly what you're
18 talking about there. Right?

19 A. Yes.

20 Q. Okay. And I was interested in something that you said
21 about this next part. You guys further requested Ms. Dokken
22 to inquire of Chuck Wilk as to how the certificate of deposit
23 program could be further investigated. Do you see that?

24 A. Yes.

25 Q. Now, Chuck Wilk was also from time to time one of these

1 advisors, was he not?

2 A. He is known as our paid pessimist.

3 Q. And Mr. Wilk was asked to -- Ms. Dokken was asked to find
4 out from Mr. Wilk how to further investigate, and I think you
5 described for Mr. Petrie what that was all about. Mr. Wilk
6 was involved in some other program, and he had some
7 information and this that and the other.

8 This is the stuff you talked about just about an hour
9 ago. Do you recall?

10 A. Yes.

11 Q. Okay. But it's interesting because, Mr. Magness, we
12 asked you about this very subject in your deposition in this
13 case that we took last February. You remember sitting for
14 your deposition?

15 A. Yes.

16 Q. You showed up with your attorney, court reporter, you
17 answered questions from my colleague, Mr. powers about a lot
18 of the stuff we're going to talk about today. You remember
19 doing that?

20 A. Yep.

21 Q. And do you remember, sir, a question was put to you, what
22 needed to be -- what was going on with this further
23 investigating? Do you remember that subject coming up in your
24 deposition?

25 A. I -- yes.

1 Q. And do you remember telling us then under oath that you
2 couldn't recall what this further investigated was all about?
3 Do you remember telling us that?

4 A. It's the word "investigation" that's different. Just to
5 investigate the asset is probably -- I didn't remember -- I
6 don't know what I remembered last time, but I'm telling you
7 what I remember now.

8 Q. Understood. And -- fair enough. And I think yesterday
9 even in answering Mr. Petrie's questions, I mean, you had a
10 lot of trouble recalling specifics. I counted probably a
11 dozen times where you just told him, "I don't recall." And
12 that's fair. A lot of this stuff happened a long time ago.
13 Right?

14 A. Right.

15 Q. All right. Now, did Mr. Wilk have some specialty in
16 financial investigation?

17 A. He's just a pretty bright individual. He worked for a
18 group called Quellos Group, which was about a hundred of these
19 smart individuals, and so we relied on him to give us a
20 different story.

21 Q. Okay. And Mr. Wilk, I believe you understand, you guys
22 planned to call him as a witness in this case. Right?

23 A. Yes.

24 Q. Okay. And you understand that Mr. Wilk has had some
25 trouble with the law. Right?

1 A. Yes.

2 Q. You understand that Mr. Wilk went to the federal
3 penitentiary for tax fraud. Right?

4 A. Yes.

5 Q. After this.

6 A. Yes.

7 Q. Okay. But to your recollection, he didn't have any
8 special financial investigative experience. He was just a
9 smart guy. Do I understand you right?

10 A. Right.

11 Q. Okay. And one of the people you relied on?

12 A. Yes.

13 Q. All right. Now, this request to Ms. Dokken that she ask
14 Mr. Espy to prepare a full report, that's what leads us to her
15 email to Mr. Espy about 90 days later in February asking Mr.
16 Espy for a full report.

17 Do you recall talking about that with Mr. Petrie.

18 A. Yes.

19 Q. Okay. Well let's put that up because I've got a couple
20 of more questions about that.

21 MR. SADLER: That's Plaintiff's No. 56, if we could.

22 Q. (BY MR. SADLER) And so there's this question about
23 mortgages. And I was not understanding it, so I need to come
24 back and ask you something about mortgages.

25 The request, do you agree with me, that Ms. Dokken made

1 on your behalf to Mr. Espy -- and I keep calling him Mr. Espy.
2 You have referred to him a couple of times as Tommy. Can I
3 just call him Tommy?

4 A. You can.

5 Q. Okay. Ms. Dokken's request to Tommy was, you guys would
6 like to understand and review the strategies and investments
7 that the Stanford bank certificates of deposit were exposed
8 to. Right there.

9 A. Correct.

10 Q. That was what you guys were interested in. Right?

11 A. Yes.

12 Q. Doesn't say, tell me whether or not you're in the
13 mortgage business. Doesn't say that, does it?

14 A. No. It says what their exposure, I believe.

15 Q. Yeah. You want to know -- and by this time you've
16 already made all your investments in the Stanford CDs by this
17 time, haven't you?

18 A. Right.

19 Q. And as you talked about, you invested over time \$79
20 million and you let the interest accrue. And by this time,
21 it's bound to be what? 90-something million. At least that
22 by this time. Right?

23 A. I think so.

24 Q. Yeah. And so you've got a \$90 million plus whatever the
25 exact number is investment, and it makes sense you would want

1 to know the strategies and investments that those certificates
2 of deposit were exposed to. Right?

3 A. Yes.

4 Q. That's an intelligent question, isn't it?

5 A. Yes.

6 Q. Okay. The part that I'm puzzled about is the stuff about
7 mortgages. Now, I just need to ask you, have you ever had the
8 experience of buying a used car?

9 A. Yeah.

10 Q. Okay. And not disparaging used car salesmen, but
11 sometimes they can be a little bit fast and loose, like you
12 might be asking about this shiny car on the lot and say, hey,
13 has that ever been in a wreck? And the response is, oh, the
14 engine runs great. And you ask them again, have you ever been
15 in a wreck with this car? Oh, the engine runs great.

16 Have you ever had a kind of experience like that?

17 A. I think so.

18 Q. I think maybe we all have. You are asking about this and
19 they are kind of answering about that. You've seen people do
20 that. Right?

21 A. Yep.

22 Q. Okay. So the question is, tell me about your strategies
23 and investments, please prepare a report. So that was the
24 question asked -- just to be crystal clear, that's the
25 question you guys were interested in as of February 5, 2008.

1 Right?

2 A. Right.

3 Q. Okay. Now, this goes from Ms. Dokken to Tommy Espy. And
4 I'm sure you're aware he acknowledged it. He responded to her
5 email. You've probably seen that before, haven't you?

6 A. Yes.

7 Q. Okay. And you know one of the problems in communicating
8 about this is maybe sometimes people honestly misunderstand.
9 You know, you thought I was asking you about something, and
10 therefore when your answer came back, we just passed each
11 other. I mean, look, it happens.

12 So we need to look at what Mr. Espy said in response to
13 getting this very specific question. And in order to do that,
14 we're going to have to look at Defendant's Exhibit No. 615.
15 This isn't a document we've seen before. That will be towards
16 the front of your book, or on the screen. Again, whichever is
17 easier.

18 A. Okay.

19 Q. So this is Defendant's Exhibit No. 615. And you'll see,
20 if we focus first at the top of it, same day, February 5, same
21 day as the email we just saw, and now Mr. Espy is replying
22 back to Tonya Dokken. And he says, oh, I was just speaking to
23 Gary when your request came in.

24 Gary would be you, wouldn't it?

25 A. Yes.

1 Q. Yeah, of course. And he says, You're not alone in this
2 request. I'm going to send you the last statement we made on
3 this issue. I will have a more thorough and detailed
4 statement and info prepared ASAP.

5 That was his response. Right?

6 A. Yes.

7 Q. So he seemed to understand that the request was, tell me
8 about the investments and strategies that the certificates of
9 deposit were exposed to. He seemed to understand what was
10 being asked of him, doesn't he?

11 A. Yes.

12 Q. Okay. But curiously if we now focus on the bottom half,
13 he says he's forwarded some information. And let's just focus
14 for a minute on this.

15 What he forwards to to Tonya Dokken is something from six
16 months earlier, which was forwarded to him, a message from
17 JRT. You recognize JRT as that's is Juan Rodriguez-Tolentino.
18 He's the bank president.

19 A. Okay.

20 Q. And please take a moment, if -- if you need to, because
21 we haven't looked at this before. Let's be sure -- I don't
22 want to -- I don't want to cut off anything.

23 MR. SADLER: Mr. Jarrett, if you could be sure we're
24 seeing all of it. Is that all of it or is there more? Let's
25 just blow up all of it so we're not -- all the way down to

1 Juan Rodriguez-Tolentino so we're not missing any of it.

2 Well, that's not helpful.

3 Can the jury see that? We're happy to blow it up.

4 Mr. Jarrett, why don't you just grab from message from
5 JRT below down to his signature just so we can focus on that
6 so we're not missing anything.

7 Q. (BY MR. SADLER) All right. So Tonya Dokken, February 5,
8 says, please tell us, get us a report, what are the strategies
9 and investments underlying the CD.

10 Tom Espy says, got it, understand, you'll get it; in the
11 meantime, here's some info.

12 And this info, I grant you, is all about the mortgage
13 market and the subprime mortgage market risk, and there, sure
14 enough, was a problem with the subprime mortgage market in
15 this time frame, wasn't there?

16 A. Yes.

17 Q. Okay. And so one thing Mr. Espy does, when he's asked
18 about strategies and investments, he says, well, here's some
19 information we put out six months ago.

20 That's his first response. Right, sir?

21 A. Right.

22 Q. And if we go back to the top of the email and be sure we
23 focus in on that thorough detailed statement and info, you
24 never got that, did you, sir?

25 A. I don't know. If that was it, the letter from Juan

1 Rodriguez stated that it had less than five percent exposure,
2 which was our biggest concern.

3 Q. Sure. But --

4 A. I think that's what he's referring to in the top line,
5 you are certainly not the only -- alone in this request. I
6 think he's talking about exactly that.

7 Q. That's right. So the question is, tell me about your
8 investments and strategies. And the answer is, well, we're
9 not in the subprime business.

10 We're kind of back to the used car guy. You kind of ask
11 about this, and they give a little bit about that.

12 A. He said he had less than five percent --

13 Q. Okay.

14 A. -- associated with that exact instrument.

15 Q. Sure. Now back to my question. Isn't it true that you
16 never got the full report, the more detailed statement of
17 info, that you asked for? Isn't that true?

18 A. I think that seems to be a report in its own -- own right
19 there. Our concern was exactly that.

20 Q. So I'll direct your attention, and we can all look at it,
21 Mr. Espy says, I am forwarding the last statement made on this
22 issue from August. That's what's below. And then he says, I
23 will have a more thorough and detailed statement and info
24 prepared.

25 And let me just ask it one last time: From your memory,

1 do you know of any thorough detailed statement that you
2 received responsive to the question you had, tell me about the
3 strategies and investments, after this.

4 A. I don't think so.

5 Q. Okay. In fact, you know what you got. You ended up
6 getting that phone call, that phone conference directly with
7 Juan Rodriguez-Tolentino on March 6th. Right?

8 A. Okay.

9 Q. That's what happened. Somehow we skipped over the
10 thorough detailed written report, and you just got a phone
11 call. That's the sequence of events. Right?

12 A. Okay. Yes.

13 Q. Okay. And what -- what's interesting -- again, just
14 to -- just to stay with mortgages for a minutes, because I
15 know you guys have focused on this, let's look at Plaintiff's
16 Exhibit No. 62.

17 Now, let's be sure -- if we go to the second page and
18 just enlarge the very top so we know what we're talking about.
19 All right.

20 So now this is March 6, 2008. This is a month after Ms.
21 Dokken has sent to Tommy, please give me a full report on
22 strategies and investments. He responds back.

23 There's no detailed report, but now you have a phone
24 call. And this is the date that phone call took place, right,
25 March 6, 2008? Is that correct?

1 A. Correct.

2 Q. And, again, let's set the stage on who is there. So you
3 were there, Gary Magness, Mr. Sutton is there, Mr. Knudson is
4 there, Ms. Dokken was invited, and Tommy came as well. Right?

5 A. Right.

6 Q. And we skipped over poor Bob. He called in, but he was
7 present by phone.

8 A. Right.

9 Q. All right. So now we -- and -- oh, and it's at the same
10 Wynn casino resort in Las Vegas. Right?

11 A. Yes.

12 Q. Do you have a standing suite? Were you having to make
13 reservations each time? How did that work?

14 A. We had to make it every time.

15 Q. Make it every time. Okay. So let's go to the discussion
16 of Stanford, which I believe is at page 3, paragraph 5. There
17 it is. And I think we can all see it without it being
18 enlarged.

19 But this is what you just talked about a few minutes ago
20 with Mr. Petrie. Is that correct? This is the same document,
21 isn't it, Mr. Magness?

22 A. Yes.

23 Q. Okay. Now, here it looks like the question that you guys
24 put to Mr. Rodriguez is, report to us on the safety of these
25 certificates of deposit. That's what you asked him for on

1 this phone call. Right, sir?

2 A. Yes.

3 Q. We're going to go over, and if I skip it, you catch me,
4 but I don't see, just staring at this three-paragraph summary,
5 two-paragraph summary of what he said, I don't see any
6 discussion of the mortgage market at all. Do you?

7 A. No.

8 Q. And what's curious about that -- and we're going to have
9 to get out of this for just a minute and go to something else,
10 so just bear with me.

11 What's curious about the fact that there's no discussion
12 of mortgages or mortgage exposure here is I thought that's
13 what we were going to see. And the reason I thought that is
14 because didn't your lawyer in opening statement say that the
15 whole purpose of having this call was to understand whether
16 the CDs were exposed to the mortgage market? Do you remember
17 him saying that?

18 A. Yes.

19 Q. Okay. And I guess then you were also right here when he
20 said -- and during this meeting, this phone call, Mr. Juan
21 Rodriguez-Tolentino said they only had a narrow exposure to
22 the mortgage market. Do you remember your lawyer saying that?

23 A. Yes. I just read it a minute ago.

24 Q. Well, we're looking at the minutes of what Mr. Rodriguez
25 said. Do you see narrow exposure or exposure or anything

1 about the mortgage market in what was written down about what
2 he told you?

3 A. I don't see it written here.

4 Q. I don't see it written there, either.

5 Now, let's talk about what he told you, because I believe
6 what you told us just a little while ago is that with whatever
7 he told you and however you understood it, you felt good about
8 it. Right?

9 A. That's correct.

10 Q. Didn't concern you a bit. Fair?

11 A. Correct.

12 Q. Same stuff you had heard from them before when you'd gone
13 down to the island, met with this same gentleman, Mr.
14 Tolentino, and he explained to you how they make money. It's
15 all the same. Right?

16 A. Pretty much.

17 Q. Yeah, pretty much. Okay. Well, let's talk about these
18 things. So the question is, tell us about the safety. The
19 first thing he tells you is the nature of the bank resembles a
20 Swiss bank model. Do you see that, sir?

21 A. Yes.

22 Q. And, of course, when we asked you about this at your
23 deposition last February, you couldn't recall what he meant by
24 the term Swiss bank model, could you?

25 A. No.

1 Q. And sitting here today, you have no idea what that means,
2 do you?

3 A. No, I do not.

4 Q. Okay. And I'm sure you are familiar with the fact that
5 Mr. Sutton and Ms. Dokken and even Tommy Espy, all of whom are
6 at this meeting, they were all asked that same question in
7 their testimony in their depositions that were taken under
8 oath that we're going to hear about later in this case, they
9 were asked that same question, what did you understand Swiss
10 bank model to mean, and don't you know they all said just what
11 you did: "I have no idea what he was talking about, I don't
12 know what he meant"?

13 MR. PETRIE: Objection, hearsay, no foundation.

14 THE COURT: I'll sustain the objection.

15 Q. (BY MR. SADLER) Let me ask the question this way. After
16 this meeting, after you hung up the phone, did any of you look
17 at each other and say, what was all that stuff about Swiss
18 bank model? I have no idea what he was talking about?

19 Did you guys have that kind of conversation?

20 A. No.

21 Q. So you didn't know what it meant. We'll hear from the
22 others what they either knew or didn't know. But let me ask
23 you now about this next one.

24 Mr. Rodriguez explained the regulatory oversight of the
25 bank in the country of Antigua. Do you see that, sir?

1 A. Yes.

2 Q. Okay. The regulatory oversight he was talking about was
3 not by the U.S. government, not by the Securities & Exchange
4 Commission. He was talking about the regulations by that
5 little island down there in the Caribbean. Right?

6 A. Right.

7 Q. Okay. And you took comfort in that, that your at this
8 point 90-plus million dollar investment under the watchful eye
9 of regulators in some Caribbean country you visited twice, you
10 took comfort in that, didn't you?

11 A. Yes.

12 Q. He goes on kind of to get to -- he says here in the first
13 paragraph I'm pointing at here, Mr. Rodriguez explained the
14 nature of the certificates of deposit. Do you see that
15 statement?

16 A. Yes.

17 Q. That really is kind of getting towards the answer to the
18 question Ms. Dokken asked a month earlier, tell us about the
19 strategies and investments that these certificates are exposed
20 to, just tell us what these things are.

21 That's kind of what he's getting ready to tell us about.
22 Right?

23 A. Right.

24 Q. And, of course, he says, you put your money in the bank
25 down in Antigua in exchange for a CD, and they pay you a high

1 interest rate. And all that's true. Right?

2 A. Right.

3 Q. I mean, that's kind of why you got in, because they were
4 offering an attractive interest rate.

5 A. Correct.

6 Q. Yeah. Okay. And then he says, well, the bank then takes
7 these funds, these funds meaning the funds you just put in.
8 Right?

9 A. Right.

10 Q. And he puts them in a portfolio of investments ranging
11 from equities to fixed income to precious metals, and other
12 alternatives. That's what he told you guys. Right?

13 A. Yes.

14 Q. Now, what he didn't tell you is exactly where or what any
15 of those things were, did he?

16 A. I don't think so.

17 Q. No. He didn't tell you, oh, we have Apple, we have
18 Exxon, we are in German bonds. He didn't -- he just gave you
19 exactly what's there--we are in a diversified portfolio of
20 equities and so on.

21 A. That is right.

22 Q. You've been in this investing business, moving money
23 around, since the late '80s. How many times have you seen a
24 sales pitch or an ad for some bank, some hedge fund, some
25 investment advisor, saying, bring your money to us, we will

1 put it in a portfolio of investments ranging from equities to
2 fixed uncomes to alternatives and so forth? You've seen that
3 a hundred times, I bet?

4 A. I've seen it.

5 Q. That is sort of a generic sales pitch by a lot of people
6 in this business. Right?

7 A. Yes.

8 Q. It doesn't really tell you anything about exactly what
9 they are doing with your money, does it?

10 A. No.

11 Q. And then he goes on to say -- he was asked, well, okay,
12 tell me how this is different from a hedge fund? Do you see
13 that? Just right after what we were talking about after the
14 alternative investments?

15 A. Yes.

16 Q. So somebody said, well, wait a minute, how is this
17 different from a hedge fund?

18 Was that your question? Do you think you asked that
19 question?

20 A. I don't recall.

21 Q. Okay. But somebody did. Somebody said, well, wait a
22 minute, if you're taking the money the depositors put in and
23 you're spreading it on whatever this equities and other stuff
24 is, how is that different from a hedge fund? Somebody asked
25 that question. You feel pretty comfortable about that.

1 Right?

2 A. Yes.

3 Q. And so let's pause here and talk about hedge fund. You
4 know what a hedge fund is. It's another one of these
5 financial terms. Right?

6 A. Right.

7 Q. And, first of all, hedge funds come in all shapes and
8 sizes. Right?

9 A. Yes.

10 Q. Can we agree that if you are a hedge fund, you are not a
11 bank?

12 A. Right.

13 Q. Okay. So whatever they are, they are different from a
14 bank. So let's start there. Now, hedge fund, again, a lot of
15 different kinds, but isn't typically a hedge fund where
16 some -- you know, some rich guys get together and they
17 accumulate money and they invite people to come in, put their
18 money in, and then they go off and they invest in start-up
19 companies and new technologies? Maybe they do buy some -- you
20 know, some mature companies, but it's kind of a long-term
21 investment idea, isn't it?

22 A. Sometimes, yes.

23 Q. Yeah. I mean, typically when you are talking about hedge
24 fund, you are not talking about putting your money in on
25 Monday and get it out on Friday.

1 A. Some are locked down.

2 Q. Yeah, yeah. Long-term investments?

3 A. Yeah.

4 Q. Okay. And he says, well, we're not a hedge fund because
5 we have regulatory oversight.

6 That's the next statement. You don't know what that
7 means, do you?

8 A. Not in its entirety.

9 Q. No. And then -- well, let me pause there. Over the
10 years, you started -- I think you said you bought your first
11 certificate of deposit back in '99. Right?

12 A. Right.

13 Q. And then you cashed that in and there was a gap and then
14 you bought the other ones we are here to talk about a few
15 years later.

16 So over the years you and your folks, I'm sure, got a
17 stack of quarterly statements, annual reports, sales
18 literature, disclosure booklets. You got a lot of literature
19 from Stanford over the years, didn't you?

20 A. I don't know.

21 Q. Well, I'm not saying you read it, but I mean you're
22 confident you guys got it. Right?

23 A. I presume.

24 Q. Okay. Whatever you took the time to look at, do you ever
25 recall seeing that Stanford was advertising to the public that

1 it was kind of like a hedge fund, had characteristics of a
2 hedge fund? Did you understand that was part of their public
3 sales pitch?

4 A. No.

5 Q. Okay. Because if you are calling yourself a bank but you
6 say we are really kind of like a hedge fund, that's kind of
7 confusing, isn't it?

8 A. Yes.

9 Q. So let's look at this next one. Mr. Rodriguez stated
10 that the bank can leverage the portfolio by a factor of 15
11 percent. That's kind of in the middle of this paragraph.
12 This is another one of these things. Leverage, that's another
13 financial term. Right?

14 A. Yes.

15 Q. And you'd agree with me that just means borrowing,
16 doesn't it?

17 A. Yes.

18 Q. And it's -- margin borrowing is a form of leverage, is it
19 not?

20 A. Yes.

21 Q. You have some kind of asset, whether it's stock or
22 something else, and you borrow money pledging that as a
23 collateral, you then take that money and invest it in
24 something else. Right?

25 A. Yes.

1 Q. And presumably the something else you invest it in, kind
2 of like the way you did with the Stanford CD, is you borrow at
3 a low rate and you hope the money you take will return a
4 higher rate. Right?

5 A. Exactly.

6 Q. Otherwise, there's really not much point doing it, is
7 there?

8 A. Right.

9 Q. So he says the bank can leverage the portfolio by a
10 factor of 15 percent. Now, that means, isn't he telling you,
11 we can borrow--we, the bank--can borrow up to 15 percent of
12 our entire investment portfolio? Isn't that what he was
13 telling you?

14 A. Yes.

15 Q. Now, that wasn't part of the public sales pitch either,
16 was it?

17 A. I do not know.

18 Q. Well, sir, in all the annual statements that came out, if
19 we look at '99 all the way up through -- I think the last one
20 was 2007, because they never got around to a 2008 for reasons
21 that are obvious, don't you know that the bank never listed
22 any kind of significant debt on its balance sheet? Don't you
23 know that?

24 A. I don't know.

25 Q. You have an expert witness who's designated to testify in

1 this case on your behalf. Is that one of the things he ever
2 looked at?

3 A. I don't know.

4 Q. If the bank was able to give you the kind of returns you
5 and the rest of the investors who put money in, that it was so
6 proud of, nine percent and so forth, and they were saying,
7 well, we can do that because we can borrow up to 15 percent of
8 our portfolio, wouldn't you think that would be something that
9 would be in the public disclosures?

10 A. Yes.

11 Q. And, in fact, we have one. And, in fact, why don't we
12 just take a look at it here. I believe it's Plaintiff's
13 Exhibit No. 492.

14 MR. SADLER: Let's put that up.

15 Q. (BY MR. SADLER) And this is one of -- tell me when you
16 got it. This is one of many examples of kind of the Stanford
17 sales pitch literature from Stanford International Bank that
18 just kind of gives you the 95,000-foot level view of the
19 program.

20 A. Well, it didn't show up, but I can see it over here.

21 Q. I'm sorry that is not in your book. We kind of edited
22 that at the last moment. Look on the screen or your screen.

23 So this is just the cover page so let's go to the next
24 page, kind of see what we're looking at.

25 MR. SADLER: And let's just blow that up just to be

1 sure we know what we're looking at here. It may be helpful.

2 Q. (BY MR. SADLER) But, I mean, you can see here that this
3 is -- this is just kind of Stanford Financial Group, we're a
4 great company, and we're involved in -- it's just kind of
5 sales talk. Right?

6 A. Yes.

7 Q. Nothing specific about their investments on this page, is
8 there?

9 A. No.

10 Q. Okay. All right. So let's skip over that.

11 MR. SADLER: Go to the next page. And we can skip
12 that. And now they're -- let's blow up that bottom piece
13 there, Mr. Jarrett, just so --

14 Q. (BY MR. SADLER) This is kind of in six bullets the basic
15 sales pitch for the Stanford CD, wasn't it? Your deposits are
16 secure, we pay higher rates, you can get access, we can have
17 some other services, five-star personal service, and we do
18 innovative stuff.

19 I mean, again, it's kind of their sales pitch to you,
20 wasn't it?

21 A. I suppose.

22 Q. Yeah. All right.

23 MR. SADLER: Let's look at the next page. And this
24 talks about depositor security. Let's just blow all that up
25 so we can see what we're talking about here.

1 Q. (BY MR. SADLER) And this is Stanford sales pitch to the
2 public. Right? And they're talking about liquidity and
3 investment time horizons. Do you see that, sir?

4 A. Yes.

5 Q. Let me focus your attention on liquidity. Do you have
6 that?

7 A. Yes.

8 Q. Liquidity, that is another financial term. You agree
9 with me that, in terms of talking about assets, liquidity
10 means it's either cash or you can turn it into cash right
11 quick. Is that a pretty good definition?

12 A. Yeah, that's saying you can turn it into cash.

13 Q. Yeah. So, for example, real estate, that's not liquid.

14 A. Not as liquid.

15 Q. No. If you own some corporation, that's not liquid,
16 either.

17 A. Stock may be.

18 Q. Exactly. If you own the stock, if it's traded on a
19 public market, you can go sell it. But if you own a building
20 or if you own railroads, you know, that's not liquid, is it?

21 A. No.

22 Q. Okay. So what they're telling the world, and I'm sure
23 they told you as part of their sales pitch to you, they are in
24 a well-diversified portfolio of securities, stable
25 governments, and it's very liquid. You understood that was

1 part of their sales pitch to you. Right?

2 A. I think so.

3 Q. Yeah. And this is part of their sales pitch, not just to
4 you personally but basically to everybody. Right?

5 A. Right.

6 Q. Put your money here, we keep it liquid. That's the
7 pitch. Right?

8 A. Right.

9 MR. SADLER: Let's go to the next page. We can skip
10 that. Well, hold on. Let's go back.

11 Q. (BY MR. SADLER) Now, this woman here, you've met her
12 before right. You know who she is?

13 A. I think so.

14 Q. That's Laura Pendergest-Holt?

15 A. I think so.

16 Q. She was the chief investment officer for Stanford
17 Financial?

18 A. Yes.

19 Q. Also one of the criminals convicted and sent to the
20 penitentiary when all of this was shut down by the government?

21 A. Yes.

22 Q. Okay.

23 MR. SADLER: Let's skip over here. All right. So
24 now let's blow this up right here so we can see what they're
25 talking about.

1 Q. (BY MR. SADLER) Now, here we get back to this leverage
2 of the portfolio comment. You see there where it says no
3 credit risk? Do you see that, sir?

4 A. Yes.

5 Q. So what Stanford bank consistently told the public was,
6 hey, we're not exposed to any kind of commercial loan problem.
7 The only lending we do is to people like you, investors,
8 people who have put money in our bank. That's what they were
9 telling the public. Right?

10 A. Yes.

11 Q. Okay. You'd agree with me, sir, that what's described
12 here, this is not describing leveraging a portfolio to make
13 high returns, is it?

14 A. I don't believe so.

15 Q. In fact, isn't this saying the opposite of that--we're
16 not into lending, we're not into borrowing. Right?

17 A. I'm not sure it says that.

18 Q. Okay. All right.

19 MR. SADLER: Well, let's go back to Plaintiff's
20 Exhibit No. 62, which is where we just were, and go back to
21 the paragraph -- the highlighted paragraph we were discussing
22 and blow that up so we can go back to it.

23 Q. (BY MR. SADLER) So you would agree with me, sir, that if
24 the bank actually was doing what the bank president told you
25 on that phone call in March of 2008 that they were, in fact,

1 borrowing as much as 15 percent of their entire portfolio,
2 that was not part of the public sales pitch, was it?

3 A. I don't know.

4 Q. Now, if we go on to this next one, we get back to the
5 hedge fund. He says, well, I admit the CD has some
6 characteristics of a hedge fund, but it's very liquid. Do you
7 see that?

8 A. Yes.

9 Q. Isn't he telling you your CD can be returned to you in
10 cash, it is very liquid? That's what he's telling you, isn't
11 it?

12 A. Yes.

13 Q. Okay. And, in fact, he goes on to say, well, 60 percent
14 of the bank's portfolio was in U.S. dollar denominated
15 investments. Do you see that?

16 A. Yes.

17 Q. Does that tell you anything about where he has put the
18 money you and thousands of others have given to that bank?
19 Does that tell you anything about that?

20 A. Yes.

21 Q. Does it tell you where, what companies, what stocks, what
22 bonds, what investments? Does it tell you anything about
23 where that money is?

24 A. No.

25 Q. No. Of course not. It just says they use dollars to buy

1 it, whatever it is. Right?

2 A. Right.

3 Q. Okay. And that's it, because the next comment is you
4 guys just thanked him, and that was it. And I assume he just
5 disconnected on his end of the line, and you guys continued
6 your meeting. Right?

7 A. Right.

8 Q. So you'd agree with me, sir, that if the question that
9 leads to this whole phone call is, we want to understand the
10 strategies and investments the CD is exposed to, he really
11 hadn't told you anything, has he?

12 A. I think that we were more concerned with the CDs'
13 exposure to the mortgage securities --

14 Q. Okay.

15 A. -- risk.

16 Q. You were -- what you're telling the jury is you were
17 concerned about the one topic that is not discussed in the
18 document you're looking at?

19 A. It's not written in this document.

20 Q. Correct, sir. But I want to be clear. All this stuff,
21 diversified portfolio, hedge fund, leverage, characteristics
22 of a hedge fund, that doesn't tell you anything about where
23 they've taken the money that you and thousands of others have
24 put in and what they've done with it, does it?

25 A. No.

1 Q. Now, as this meeting ends, you guys at the meeting, you
2 make a decision about these Stanford CDs, and the decision you
3 make right here is what we're looking at.

4 I don't know if we can highlight that or blow it up, but
5 the decision by the committee, which is you, Ray Sutton, Steve
6 Knudson, and Bob Armstrong -- did I leave anybody else or is
7 it those four? It's them?

8 What you guys decide is, after hearing all this, the
9 committee says, well, any more investments or any more
10 withdrawals or any withdrawals of the CDs, that's now Mr.
11 Magness' decision. You made that decision at the meeting.
12 Right?

13 A. Yes.

14 Q. And these other folks, not you, but if we're talking
15 about Ray Sutton, Ray Sutton had no involvement in your
16 decision to invest in the first place in these CDs. Right?

17 A. Correct.

18 Q. Bob Armstrong, same thing, no involvement in that.
19 Right?

20 A. Correct.

21 Q. But now the decision is, okay, Mr. Magness has these CDs,
22 and whatever he's going to do with them, it's not up to the
23 committee, it's now been delegated to him. You guys made that
24 decision at this meeting. Right?

25 A. Right.

1 Q. Okay. From your memory, and I realize I'm asking you
2 about something that happened a few years ago, but after this
3 phone call when you heard all this stuff directly from the
4 bank president, did you guys, that is, all of you who were
5 assembled at the meeting, including Ms. Dokken, including
6 Tommy Espy, did you guys have a discussion along the lines of,
7 we haven't heard anything, we have no idea what they're doing
8 with my money? Did you have any discussion like that at all?

9 A. No.

10 Q. All right. Let's go back just so we -- and I think --

11 MR. SADLER: Do we have a slide where we can just
12 focus on the particular terms? I think it's kind of a
13 scatter-shot or cull-out slide. If we can just focus on these
14 things.

15 Q. (BY MR. SADLER) Now, we just have been through this, and
16 this was his explanation of the nature of the bank and the CD.
17 We've just been through this.

18 But you would agree with me, sir, that whatever
19 this -- even if we don't understand what this is, whatever
20 this is, this is different than what the same bank president
21 told you how the bank made money when he first explained it to
22 you when you went down to the island. Right? It's different.

23 A. There is a billion dollars involved, and I think there's
24 a lot of different things they were doing with the money.
25 This is what's written down after that meeting. It's not a

1 recording.

2 Q. I understand, sir. But it was Mr. Sutton's job to take
3 these minutes. Correct?

4 A. Correct.

5 Q. This was important business you did at these
6 almost-quarterly meetings. Right?

7 A. Correct.

8 Q. Some of these things you are talking about, moving
9 millions of dollars here to there, selling that, buying that,
10 this is important stuff, isn't it?

11 A. It is.

12 Q. And you'd agree with me, Mr. Sutton took his job
13 seriously?

14 A. Yes.

15 Q. All right. He's a lawyer at a reputable firm, isn't he?

16 A. Correct.

17 Q. Okay. So the best record of what we have of what Mr.
18 Tolentino explained to you in March 2008 about how the bank
19 made money, it's this, isn't it?

20 A. It's what he says he has his money in.

21 Q. Yeah. But, sir, that's different from what you
22 understood from your earlier conversations with Mr. Tolentino
23 about how the bank made money. You had been given a different
24 explanation earlier, hadn't you?

25 A. I had been given a different explanation, yes.

1 Q. Yeah.

2 A. But I didn't think it was in the complete, you know,
3 total of all the investments they had. They had investments
4 in airlines, investments in hotels, investments in Florida
5 property, condominiums. They had lots of investments, and I
6 said I didn't want to be in those.

7 Q. Understood. So you were told--I want to be clear--not at
8 this meeting but this is part of the earlier explanation. Is
9 that what you're talking about?

10 A. Right.

11 Q. Yeah. Okay. So in the earlier explanation that you got
12 from Tolentino, one of things he said is, we've got
13 airlines-as you said--hotels, real estate, things like that.
14 Right?

15 A. Yes.

16 Q. Now, did he -- did he tell you at this earlier time when
17 you first heard from him how the bank was making money, that
18 when they took in investor money in the form of CD purchases,
19 that they used that money to buy airlines, buy hotels, buy
20 real estate?

21 A. That's some of -- they showed me some of their
22 investments, yes.

23 Q. Did you -- again, I know you didn't look at maybe not
24 much of it, but do you think that if we looked at all the
25 sales literature over the years from Stanford International

1 Bank, that we might find anywhere where they're telling the
2 public, that they're taking the public's money in when they
3 buy these CDs, and they're using it to buy things like hotels
4 and real estate and airlines? Do you think we would ever find
5 anything like that in their public sales literature?

6 A. Maybe.

7 Q. All right. All right. But whatever you were told before
8 by Tolentino, compared to whatever you were told here and
9 whatever it means, it left you not really understanding and
10 knowing how the bank made money to pay you the kind of return
11 they paid you. Isn't that fair?

12 A. I'm not sure if I -- either way. It didn't affect me
13 either way.

14 Q. It's not a question whether it affected you. I'm asking
15 you, sir, isn't it true that whether we're talking about the
16 explanation he gave you when you first went down and visited
17 the bank or the explanation -- the different one he gave you
18 here in 2008, either one of those, you didn't understand how
19 this bank was claiming to make the kind of money to pay the
20 kind of return they were paying you. You just didn't know how
21 they were doing it, did you?

22 A. I didn't know the daily workings, no.

23 Q. Well, again, it's not about the daily workings. You just
24 didn't have any understanding of how they were able to do
25 this, did you?

1 A. I had, you know, information from them in the history of
2 their payments and so forth. I guess that's all I had.

3 Q. Okay.

4 A. What they said they were doing.

5 Q. Who knows? Right?

6 A. Yeah.

7 Q. Okay. Now, when we asked you in your deposition a little
8 bit more about the earlier explanation, not this one, but the
9 earlier explanation, you remember one of the things you told
10 us was that you understood from talking to Mr. Tolentino, the
11 bank president, that Stanford was actually a lot like you,
12 that it was all about arbitrage.

13 Do you remember telling us that?

14 MR. PETRIE: Objection, hearsay.

15 MR. SADLER: I'm asking the witness about his own
16 testimony, Your Honor.

17 THE COURT: Overruled.

18 THE WITNESS: I believe it was like -- the way I
19 said that, answered that question to you, it was a little
20 different than the way you took it. But I consider what I did
21 was arbitrage. I borrowed for five percent and made nine.
22 They paid nine and made 12-plus. That's an arbitrage that
23 they would be doing.

24 Q. (BY MR. SADLER) Well -- and, yes, that's exactly right.
25 And it's the making 12 part that we're focusing on.

1 You thought how Stanford was able to make the high rates
2 so that it could pay you your high rates was they were into
3 arbitrage just like you.

4 A. They were -- that was an arbitrage. They borrowed from
5 me at nine percent. They tried to make money. Anything more
6 than nine percent is called profit

7 Q. Okay. But how they were making more than -- because they
8 had to pay you nine. Right? That's what they promised to pay
9 you.

10 A. Right.

11 Q. And fair assumption that Stanford organization, not just
12 nationwide but worldwide, they've probably got some expenses,
13 too. Right?

14 A. Right.

15 Q. So they got to make more than just nine percent on the
16 money you put in just to pay you. Right?

17 A. Right.

18 Q. And they got expenses, who knows what those are. So
19 somewhere they've got to go out there and make a lot more than
20 nine percent just to be able to pay you nine percent. Right?

21 A. Right.

22 Q. Okay. And the problem was, whatever they were claiming
23 they were doing to go off and make their 12 percent so they
24 could pay you your nine percent, it wasn't the same thing that
25 they had told you before. Right?

1 A. It -- I didn't know that they still weren't doing that.
2 They did lots of things. Like I said, they are \$8 billion.
3 So they could have been in lots of different facets of
4 business, and they were.

5 Q. And even though you understood that you heard one
6 explanation from Mr. Tolentino at one time and another
7 explanation here on March 8th, different explanations for how
8 the bank was making money, you didn't ask him to explain, for
9 instance, well, when did you guys change strategies? You
10 didn't ask him a question like that?

11 A. I didn't see that the actual strategy had changed. I
12 think that this is a shot of what they're invested in that
13 day.

14 Q. You're telling us that you thought that this whole
15 explanation that you got on March 6th, 2008, he was just
16 giving you a snapshot in time, this is what we're in today, we
17 might have been doing something different yesterday, and we
18 might change our minds and do something different tomorrow?

19 A. In some cases, yes.

20 Q. Let's assume that's what he was trying to convey to
21 you--that we change our investment strategy daily, weekly,
22 monthly, whatever he was trying to convey to you.

23 You've seen a lot of the public literature. Do you think
24 that was what Stanford was telling the other investors
25 publicly--give your money to us; today we might do this with

1 it; tomorrow we might do something else; and yesterday we
2 can't even remember what we did?

3 Are you saying that was part of their sales pitch to the
4 public?

5 A. I think that they relied on their past performance to
6 sell their customers.

7 Q. Which is another way of saying is, as long as the
8 interest payments kept coming, as long as you could redeem
9 without a problem, nobody asked questions? Is that kind of
10 what you are saying?

11 A. It is kind of like, yeah, most funds.

12 Q. All right. So this is March of 2008.

13 MR. SADLER: Let's take this down.

14 Q. (BY MR. SADLER) Now, Mr. Petrie spoke with you briefly
15 about a Bloomberg story, and you mentioned Bloomberg a couple
16 of times here today. Right?

17 A. Yes.

18 Q. And maybe everybody knows, but let's just be very clear.
19 Bloomberg is not Michael Bloomberg, the former mayor of New
20 York, is he? That's not what you were talking about. Right?

21 A. No.

22 Q. Bloomberg is the worldwide, renowned, reputable,
23 financial news service. That's what we're talking about.
24 Right?

25 A. Right.

1 Q. They've been around for years. They are -- in terms of
2 financial news, financial reporting, they are one of the
3 biggest ones. Right?

4 A. Right.

5 Q. So Bloomberg, as we saw -- and, in fact, let's just go
6 ahead and put it up so we're reminded.

7 MR. SADLER: Plaintiff's Exhibit No. 65. So let's
8 just grab the top.

9 MR. PETRIE: Your Honor, this is beyond the scope.

10 THE COURT: Overruled.

11 Q. (BY MR. SADLER) So Bloomberg came out with a story July
12 3rd that pretty plainly says, the SEC is investigating sales
13 of certificates of deposit down at Stanford, including its
14 offshore bank. Do you see that?

15 A. Yes.

16 Q. And I think you said, to your memory you never saw this
17 news story. Right?

18 A. That's right.

19 Q. But you did tell us yesterday -- I think I have this
20 right -- well, I don't want to be wrong. I think you told us
21 yesterday that on one of your trips down to Antigua, you
22 actually saw SEC investigators running around down there.
23 Right? Didn't you tell us that?

24 A. Yes.

25 Q. Okay. And so let's pull up the trial transcript from

1 yesterday just to be really clear on what you said. And it's
2 at page 126, line 22.

3 And Mr. Petrie was asking, "How did you know that the SEC
4 had been investigating them?" The them is you were talking
5 about Stanford. Right?

6 A. Yes.

7 Q. This is just yesterday. You understand what we're doing
8 here. This is testimony you gave yesterday, Mr. Magness. You
9 understand that?

10 A. Yes.

11 Q. Okay. And then in the first you say, "They told me" --
12 and to be very clear, you're saying the Stanford people that
13 you met with, including Tolentino, when you went down to visit
14 the bank and stayed at Jumby Bay, "They told you the SEC had
15 been down there investigating them." Right?

16 A. They have been investigating them before I put money in
17 the bank.

18 Q. Right. We're talking about -- this is before --

19 A. They investigated them three or four times.

20 Q. Understood. I just want to be very clear what you were
21 describing to the jury yesterday --

22 A. Yeah.

23 Q. -- is that when you were down on the island, the Stanford
24 people told you, oh, the SEC has not only been investigating
25 us, that they were there while you were there.

1 A. They pointed at them and said, "There they are."

2 Q. They said, there's two guys over there -- what, dressed
3 in suits? How were they dressed?

4 A. In suits --

5 Q. Suits?

6 A. -- but island hot.

7 Q. Island hot suits.

8 A. Well, you know, they just -- I think they had the tops
9 off, had their ties on still.

10 Q. I see. Were they actually at the bank?

11 A. Yes.

12 Q. At the bank. Okay. And you saw them.

13 A. They were pointed out to me.

14 Q. And the Stanford people said, "Those are SEC guys
15 checking us out right there."

16 A. Right.

17 Q. And I think you said you kind of didn't want to go over
18 there and meet them because they kind of looked like CIA guys.
19 Right?

20 A. Right.

21 Q. That's a pretty cool story. I mean --

22 A. Yeah.

23 Q. But, you know, in your deposition that we took, which is
24 in front of you, we covered this same topic. Do you remember
25 that?

1 A. No.

2 Q. Don't you remember we asked you, how did you come to
3 think that the SEC had been investigating Stanford even before
4 you put your money in? Don't you remember us asking you?

5 A. Yes.

6 Q. -- some questions about that?

7 A. Yes.

8 Q. And you told us in your deposition, Stanford people told
9 me.

10 A. Correct.

11 Q. And then we asked you, well, did you ever see any
12 documentation that the SEC had been down there investigating?
13 And do you remember what you told us?

14 A. They're not required to give you that.

15 Q. Right. Right. So you told us in your deposition -- and,
16 again, let's just -- let's look at page 125, line 14 to 18,
17 and you have it right there, sir, if you want to look on with
18 me.

19 A. Okay.

20 Q. So this is from your deposition where you were testifying
21 in response to our questions, what gave you the impression
22 that the U.S. government had been investigating the bank in
23 Antigua. And you said, Stanford's people told me. Right,
24 sir?

25 A. Yes.

1 Q. And then I think --

2 MR. SADLER: And let's just go to the full
3 transcript, because I think we just need to see all of page
4 125 to make sure we are not missing something here. Yeah.
5 Okay. So if we could blow up lines 14 through the bottom,
6 because that's where we were here just a second ago.

7 Q. (BY MR. SADLER) So we just saw this, what gave you the
8 impression? Do you see the question there, sir?

9 A. Yes.

10 Q. And then we asked you, "Did you ever see any
11 documentation?"

12 And there's your answer, "No, not that I know of."

13 Maybe I missed it, but where in here is the story about
14 seeing the SEC guys that looked like CIA agents.

15 A. I left it out.

16 Q. All right, sir.

17 MR. SADLER: Now, let's go back briefly to
18 Plaintiff's Exhibit No. 65.

19 Q. (BY MR. SADLER) And so after this story broke, the story
20 I think you told us you never saw, in fact weren't you
21 traveling with Tom Espy when this story came out?

22 A. I usually spend the month of July in upstate New York,
23 and that's where I was. I did not have my satellite TV in
24 '08, but I've had it ever since, in Upstate New York.

25 Q. Okay. Thank you for that. And I'm sorry if my question

1 wasn't clear.

2 My question was, weren't you traveling with Tom Espy
3 about this time?

4 A. I think so.

5 Q. Okay. You guys were together in upstate New York --

6 A. Yes.

7 Q. -- with wives and his girlfriend, kind of like the
8 earlier trip?

9 A. Yes.

10 Q. Or was it his wife by then?

11 A. I think it was he and his kids.

12 Q. Kids. Okay. No wife, no girlfriend, just Tom and his
13 kids?

14 A. Yeah.

15 Q. Okay. Okay. And you're telling us the subject of this
16 Bloomberg story when you and Tom are in upstate New York just
17 never came up.

18 A. I -- I don't believe so. I have heard of it, and the
19 aspect of it, and it states right here, that it was two
20 disgruntled employees. But I also know that nothing ever came
21 of -- of this so-called investigation. If it was an
22 investigation, how did they even know, because the FBI, the
23 CIA, the SEC, never tells anybody about an investigation.

24 Q. Well, sir, we -- we know what came of this investigation
25 of the certificates of deposit of the offshore bank. What

1 came of that investigation is Mr. Janvey got appointed and
2 several people went to jail. That's what came of it. Right?

3 A. I don't know that that's where that came from.

4 Q. Oh. So your thought was maybe this was some other
5 information of Stanford that's not the investigation that led
6 to the bank being shut down just seven months later?

7 A. Well, it's pretty hard to say that somehow Bloomberg had
8 information that the SEC was investigating anything. If they
9 don't come out and say they're investigating, nobody is
10 supposed to know.

11 Q. So you're saying it's unusual that there would be
12 published reports of a government investigation at a time when
13 the government says, we're not going to comment on whether
14 there's an investigation or not. You say that's unusual?

15 A. I think it is, yes.

16 Q. Can you think of another time that that's happened?

17 A. Probably every other time.

18 Q. But you know from talking to Mr. Espy and understanding
19 his testimony, that he said this was all the buzz around the
20 Stanford offices.

21 A. I don't remember, you know.

22 Q. You're saying he never talked to you about this subject
23 which he described as a buzz all around the Stanford offices.
24 He never brought it up to you?

25 A. It would have been nice if the SEC would have brought it

1 up to me.

2 Q. So let's talk about right in this same time frame the
3 kind of messages and statements that the Stanford
4 International Bank is putting out to all its investors, and
5 all of its investors includes you in this time, you're all in
6 these CDs right now. Right?

7 A. Right.

8 Q. Okay. So let's look at that.

9 MR. SADLER: Let's look at Plaintiff's Exhibit No.
10 70. And let's first just focus enlarge the top so we can kind
11 of see who's kind of getting what here.

12 Q. (BY MR. SADLER) All right. So this is July 27, 2008,
13 and Tommy is sending something to Tonya Dokken. All right.
14 Now let's look at what he's sending.

15 MR. SADLER: If we can just kind of grab all of
16 that. Yeah, perfect.

17 Q. (BY MR. SADLER) Okay. So Mr. Espy is getting some
18 information from SIB, Stanford International Bank, and he's
19 sending it on to your chief financial officer. And on behalf
20 of the chairman --

21 MR. SADLER: we need to see who sent this, who is
22 the on behalf of. Let's go to the next page so we know what
23 we're talking about. Somebody is saying I am speaking on
24 behalf of. Go to the next page. Oh, there he is. Okay.
25 Right here. Blow that up.

1 Q. (BY MR. SADLER) There's that JRT again. You recognize
2 that as Juan Rodriguez-Tolentino. That's the president of the
3 bank. Right?

4 A. Yes.

5 MR. SADLER: So let's go back to the first page and
6 let's see what he's saying.

7 Q. (BY MR. SADLER) So Mr. Juan Rodriguez-Tolentino has sent
8 this message out, which has been shared with not only you but
9 all the investors, on behalf of the chairman, pleased to
10 report -- you see that largest sustained growth? Do you see
11 that at the top there?

12 A. Uh-huh, yes.

13 Q. So I presume that you were aware from talking to Tonya
14 Dokken in this time frame that, as far as she was hearing,
15 Stanford International Bank was doing just great. That's the
16 information that you were hearing from the public side,
17 weren't you?

18 A. Yes.

19 Q. In fact, they acknowledge right there, "In the midst of
20 turbulent world economic conditions." You'd agree that was
21 probably maybe a little hype, but things were kind of
22 turbulent there in the middle of the summer 2008, weren't
23 they?

24 A. Yes.

25 Q. Markets had already -- they hadn't taken that big drop,

1 but they had taken some big drops already, hadn't they?

2 A. A lot of the sectors of the market had.

3 Q. Absolutely. And he talks about there's been news of
4 financial collapse and so forth. But in the middle of that,
5 he is saying that the bank has achieved a 14.8 percent
6 increase in assets and met their most optimistic expectations.

7 Do you see that, sir?

8 A. Yes.

9 Q. And they go on to say they've added 4,000 new accounts.
10 Do you see that?

11 A. Yes.

12 Q. Uses terms like record-setting six months. Do you see
13 that?

14 A. Yes.

15 Q. So you'd agree with me, sir, that--and this is just a
16 couple of months after you've had this phone call with him
17 where he's explaining to you what the bank is all about and
18 how it does what it does--he is telling you and the rest of
19 the investors, yeah, things are turbulent, but we're not only
20 doing good, we're doing great.

21 That's the message he's sending out, isn't it?

22 A. Right.

23 Q. Whatever else is going on in the market, he is saying,
24 not affecting us. That's the message he's sending out.

25 Right?

1 A. Right.

2 Q. And, in fact, he then talks about, you know, we're going
3 to send you our quarterly update here in just a couple of
4 days.

5 MR. SADLER: And let's take a look at that. That's
6 Plaintiff's Exhibit No. 474. And let's just blow up that top
7 part so we can see what we're talking about.

8 Q. (BY MR. SADLER) I'm sure you have seen these before.
9 For years Stanford International Bank, before it shut down by
10 the government, they put out these quarterly reports that
11 talked about world market conditions and how they're doing.
12 I'm sure you've seen these before.

13 A. Okay.

14 Q. And this one particularly is from this time frame we were
15 talking about, April to June 2008. Do you see that date?

16 A. Yep.

17 Q. All right.

18 MR. SADLER: Now we're going to skip the market
19 recap because--you're just going to have to trust me--it's
20 just a bunch of stuff about how everything is just going to
21 hell in a hand basket everywhere else, and let's just go to
22 the last page where they're talking about how they're doing.
23 Let's go to that very last page.

24 All right. Let's start first with those pretty-looking
25 colored pie charts.

1 Q. (BY MR. SADLER) Now, Mr. Magness, let's look at the one
2 at the top left. Does this sort of look like what Mr. Juan
3 Rodriguez-Tolentino was describing to you in your March phone
4 call that says, we are in equities and fixed incomes and
5 alternatives and that sort of thing?

6 A. Yes, it looks a little like that.

7 Q. We put some percentages to it, but it is kind of the same
8 thing in a pretty pie chart. Right?

9 A. Yes.

10 Q. Same thing, it doesn't tell you exactly where they are.
11 It just kind of tells you at a high level. Right?

12 A. Yes.

13 Q. Yeah. And they say they're in equity. And, equity, you
14 agree with me, they're talking about stocks?

15 A. Right.

16 Q. And they're saying they're 51 percent at this point in
17 time in stocks. Right?

18 A. Right.

19 Q. And let's talk about fixed income. You know about fixed
20 income. Fixed income, that's not stocks. That's low-risk,
21 low-yield, like government bonds, that kind of stuff. Right?

22 A. Right.

23 Q. Very high quality corporate bonds would also be an
24 example. Right?

25 A. Yes.

1 Q. Yeah. This is -- fixed income is not speculative real
2 estate or oil and gas futures or stuff like that, is it?

3 A. No.

4 Q. Okay. All right. So they're telling everybody, this is
5 where we are. This is where we, the bank, have put all the
6 money, just kind of by a sector.

7 All right. Now let's go to the bottom, and let's see how
8 the bank is telling everybody they are doing. So let's first
9 look at what they say about how everybody else is doing.

10 Now, you'd agree with me that, I mean, these percentages,
11 maybe they're not to the -- to the last decimal, but the stock
12 market was having a real tough time in the middle of the
13 summer 2008, wasn't it?

14 A. Well, this is at June 1st. Right?

15 Q. End of June, right there, 6/30/2008. All the major
16 indexes are way down, and that's consistent with your memory,
17 isn't it?

18 A. Yes. There was the banks, I think, and the builders
19 which were pretty good sized parts of the Dow.

20 Q. Yeah. And the S&P -- let's talk about this a moment.
21 The Dow Jones industrial average, that's made up of a group of
22 about 100 blue chip stocks. Right?

23 A. Right.

24 Q. The S&P 500 is just a bigger group, 500 stocks across a
25 whole bunch of other sectors. Right?

1 A. Right.

2 Q. Whether you're talking about one or the other, they are
3 all down pretty significantly. Right?

4 A. I don't remember what they are down. Is there a graph
5 here somewhere?

6 Q. Well, there's percentages right there, sir. The Dow
7 Industrial is down 14 percent. The S&P is down almost 13
8 percent. Do you see those?

9 A. Yes.

10 Q. And that's consistent with your memory. There was a lot
11 of problems in the stock market in the middle of the summer
12 2008, wasn't there?

13 A. Right.

14 Q. But yet if we look down here at Stanford, they're saying,
15 wow, we've actually made money. Do you see that?

16 A. Yes.

17 Q. Do you have -- based on everything that you know at that
18 time, do you have any explanation of how it is that the bank
19 was making money at a time when every other index in every
20 other financial market was going in the totally opposite
21 direction?

22 A. One of their assets may have -- a lot of their assets may
23 have matured and they cashed them out and made money, which
24 would change the way their outcome looks for that year or that
25 six months, and --

1 Q. But, of course, you really don't know that, do you?

2 A. No, I don't know that, and I don't know that there wasn't
3 also kind of safe harbors basically. Even my stock seemed to
4 be a safe harbor until October. And if they were jumping off
5 of a one -- a bank stock into one that's a -- you know, a
6 place where it's a safe harbor, other people would be
7 following suit which would drive the price of the safe harbor,
8 up which is another way they could look good. There's a lot
9 of luck involved with all that.

10 Q. So it might have been luck and it might have been a
11 secret strategy. We just don't know, do we?

12 A. No.

13 Q. And certainly, based on what Mr. Tolentino had told you
14 in the March phone call, that wouldn't explain how they are
15 able to do this, would it?

16 A. It did not.

17 Q. Right. Okay, sir. Now, we saw that Ms. Dokken got this
18 information. She's your CFO. Was she kind of the collection
19 point for the paperwork that flew back and forth?

20 A. That's the head office.

21 Q. Okay. Between Stanford on the one hand and your
22 organization on the other hand?

23 A. Right.

24 Q. And the pipeline for that information was Tommy Espy.
25 Right?

1 A. In some cases, yes.

2 Q. Well, okay. And you said he is the gentleman that worked
3 for SGC, and SGC is the company that sold the certificate of
4 deposit for you on behalf of the bank. That's how you
5 understood it?

6 A. Yes.

7 Q. Okay. In this time frame, did you talk with Ms. Dokken
8 about, you know, has anybody ever really explained how
9 Stanford bank is able to do so much better than the rest of
10 the market? Did you ever look into that? Did you have that
11 kind of discussion with her?

12 A. I don't believe so.

13 Q. I remember the mention of Chuck Wilk was at some point
14 supposed to talk about further investigated. At this point in
15 time, was he looking into this or had he gone off to the
16 penitentiary by then?

17 A. I don't think he'd gone to the penitentiary.

18 Q. That was later?

19 A. Yes.

20 Q. Okay. In your travels, your meetings, whatever you were
21 doing with Tommy Espy, did you ever in this time frame, after
22 you've heard the explanation from Mr. Tolentino, did you ever
23 ask Tommy, you know, how are you guys doing so well when the
24 rest of the market is doing so poorly? Did you ever ask that
25 question?

1 A. I presume we did. I don't remember asking it, but, you
2 know, it's -- we're always checking the risk of all
3 investments always, you know, so somehow that would have to
4 come up.

5 Q. It would have to come up. And if somebody had been asked
6 to look into it in this time frame on behalf of the investment
7 committee, we probably would see a record of that in your
8 investment committee minutes, wouldn't we?

9 A. Right.

10 Q. Okay. And so we're kind of between -- if we're talking
11 about June 30, we're kind of between meetings. Right?

12 A. Right.

13 Q. We've just had the one in March where Mr. Tolentino said
14 all the things he said, and then the next one is not until
15 October 1. Do I understand you right?

16 A. Right.

17 Q. And I think we have those October 1 minutes for 2008. I
18 believe it's Plaintiff's Exhibit No. 114.

19 MR. SADLER: And I'm being told no, so somebody give
20 me the correct exhibit number and we will go on to something
21 else.

22 THE COURT: We are getting close to lunch break time
23 if you could let me know when we're at a good stopping point.

24 MR. SADLER: This is a good stopping point since we
25 need to find that exhibit. So thank you, Your Honor.

1 THE COURT: All right. We will take our lunch break
2 now, and let's see you-all back at 1:30. 1:30.

3 (Whereupon, the jury left the courtroom.)

4 THE COURT: Here's the Wilk depo for you-all. And I
5 believe I overruled all the objections except one for
6 narrative, non-responsive towards the end.

7 In terms of the instruction regarding Sutton, I think I'm
8 inclined to give about the first half of the Receiver's
9 proposed instruction, which is very consistent with the
10 Magness parties' proposed instruction.

11 The part that I'm omitting is just the part that would
12 reiterate to the jury that they are the judges of the facts
13 and all of that stuff. And I think they know that, and if
14 not, I will remind them again at the end.

15 Anything else we need to take up right now?

16 MR. SADLER: No, sir.

17 MR. PETRIE: No. Thank you, Your Honor.

18 THE COURT: Okay. We'll see you-all back at 1:30.

19 (Lunch recess.)

20 THE COURT: All set?

21 MR. SADLER: Yes, sir.

22 MR. PETRIE: Yes, sir.

23 THE COURT: How much longer do you think?

24 MR. SADLER: About 90 minutes or so.

25 THE COURT: That will take us right up to afternoon

1 break then.

2 Let's bring them in.

3 (Whereupon, the jury entered the courtroom.)

4 THE COURT: Be seated.

5 We're still trying to sort through some of our equipment
6 issues with regard to camping out down here. And I understand
7 the lawyers at least have decided they like it pretty well
8 down here and don't want to move, so we may just stay here for
9 the duration.

10 So is the Receiver ready to proceed?

11 MR. SADLER: I am, Your Honor. May I proceed.

12 THE COURT: Please.

13 Q. (BY MR. SADLER) Mr. Magness, I now want to turn to a
14 very critical time period in this case, which is October 2008.
15 Again, you still have your exhibit book up there with you?

16 A. Yes.

17 Q. Now, I want to see if we can first get this sequence
18 correct of what happened in October of 2008.

19 It's true, isn't it, that the sequence is you sent Tom
20 Espy to ask for a redemption of the CDs, and the bank first
21 said, no, redemption is not possible, and he reported that
22 back to you. Is that the first part of the sequence?

23 A. I think so.

24 Q. Okay. And it's only after those first two things
25 happened, no redemption, not possible, Tom Espy reports that

1 back, then the discussion turns to a loan. Right, sir?

2 A. Yes. That is probably the same time.

3 Q. Yes, sir. Well, let's look at Plaintiff's Exhibit No. 92
4 just to understand the sequence a little bit better.

5 And Plaintiff's Exhibit No. 92, we've looked at this
6 before, the December 5 meeting minutes. Let's now go to the
7 paragraph we want to focus on, which is paragraph 4 on page 2.

8 And, again, just to confirm, the sequence is Mr. Espy had
9 approached Stanford bank regarding the redemption of both Mr.
10 Magness's and the GMIT certificates of deposit. He was told
11 redemption would not be possible. You then asked how this
12 risk could be reduced. He responded that, after the bank
13 advised the redemption was not possible, then the loan came
14 up.

15 Is that the sequence as you remember it?

16 A. I'm not sure how -- what amount of time is involved
17 there.

18 Q. And in this sequence of going to the bank, asking for the
19 redemption, being told no, reporting back to you, and then it
20 turns to the loan, you're in communication with Tom Espy. Tom
21 Espy is in communication with the bank president, Mr.
22 Tolentino. That's who's involved here. Right?

23 A. Right.

24 Q. Okay. And you're involved in terms of getting this first
25 loan, we're talking about the \$25 million loan, you're

1 involved basically in real time. You're sending Tom to go do
2 this, he's reporting back to you, you're not hearing about it
3 weeks later. You are hearing about it as it's happening.
4 Right?

5 A. I believe so.

6 Q. Okay. And you would agree with me, sir, that with all of
7 what you understood, were told in the sales pitches and the
8 sales literature about the CDs, that the fact that the bank
9 told you, no, you can't have a redemption, that was a big red
10 flag, wasn't it?

11 A. No. It was their choice whether to redeem, loan, or do
12 nothing.

13 Q. You know Mr. Sutton said to him that was a big red flag.
14 You know that, don't you?

15 MR. PETRIE: Objection, Your Honor. Same basis as
16 before--hearsay, no foundation.

17 THE COURT: Sustained.

18 Q. (BY MR. SADLER) Mr. Magness, you are aware that
19 Mr. Sutton has given sworn testimony that is going to be
20 offered in this case. You're aware of that, aren't you?

21 A. No.

22 Q. You're not aware Mr. Sutton is going to be a witness in
23 this case?

24 A. That I'm aware of.

25 Q. Are you aware in Mr. Sutton's testimony, he was asked

1 about this very same subject, what was the consequence of
2 being told you couldn't redeem the CD? Don't you know that
3 was discussed with him?

4 MR. PETRIE: Same objections.

5 THE WITNESS: No.

6 THE COURT: Can you-all come up for just one moment?
7 (Discussion at the bench, out of the hearing of the
8 reporter.)

9 MR. SADLER: May I proceed, Your Honor?

10 THE COURT: Please.

11 Q. (BY MR. SADLER) So we got interrupted but let me go back
12 to that. Just to understand you, so to you, when Mr. Espy
13 reported back that Mr. Tolentino on behalf of the bank had
14 said redemption is not possible, to you that was not a big red
15 flag.

16 A. No.

17 Q. Is that what you're telling us.

18 A. No.

19 Q. It is not a big red flag.

20 A. No.

21 Q. And to you wasn't this a sign that maybe, contrary to
22 what the bank was telling the public, they might be kind of
23 strapped for cash? Was that not a red flag on that issue to
24 you?

25 A. We obtained a loan immediately, and we obtained three

1 more of them relatively soon after that. All of them were
2 paid in full immediately.

3 Q. Well, let's be sure who we're talking about being paid in
4 full. The bank did transfer over the four different loans
5 about \$88 million to you. Right?

6 A. Yes.

7 Q. But in the course of getting those loans, you promised to
8 pay them back and pay them back quickly. You know that, don't
9 you?

10 A. Yes.

11 Q. And, in fact, Tom Espy, when he first raised the issue
12 with the bank president, Mr. Tolentino, he said you needed the
13 loan just for a week and were going to pay it back in a week.
14 You know that, don't you?

15 MR. PETRIE: Objection, hearsay, no foundation.

16 THE COURT: Overruled.

17 Q. (BY MR. SADLER) Isn't it true, sir, that in order to get
18 these loans from the bank, your people promised that these
19 would only be short-term loans and that the cash would
20 come -- be repaid right back to the bank as soon as you guys
21 could sell securities? Isn't that true?

22 A. No.

23 Q. That's not true. All right.

24 Well, at the moment before you hear from Tom Espy, after
25 you've sent him to go get the redemption and right before he

1 reports back redemption not possible, Mr. Magness, isn't your
2 mindset these CDs are just like cash, I can get the cash any
3 time I want?

4 A. You're asking if that's how I felt before?

5 Q. Yes. Right before -- I'm asking you -- yes?

6 A. I knew that they didn't have to give you cash until the
7 maturity date. I knew that they did redeem early redemption,
8 but it was with penalty and would require some negotiation.

9 Q. Well, the penalty was right in the paperwork. It's three
10 months interest. That's the penalty, isn't it?

11 A. I think so.

12 Q. Yeah. And, in fact, Ms. Dokken, at one point she had a
13 CD. You know that, don't you?

14 A. Yes.

15 Q. She cashed it out early, in fact right about the time she
16 sent that February 2008 email. You know that, don't you?

17 A. I think -- I -- I don't remember when I knew it, but I
18 did know that.

19 Q. Yeah. And, in fact, don't you know that not only was she
20 able to cash out her CD early, the bank waived the penalties
21 for her.

22 A. That's good.

23 Q. Yeah. So back to the point in time right before you hear
24 Tom Espy saying no redemption, isn't it true you thought if
25 you wanted the cash, you could get it. If you had to pay an

1 early withdrawal penalty, three months' interest, so what.

2 Wasn't that your mindset at that point?

3 A. I think that there's always the possibility that you
4 might make a negotiation one way or another.

5 Q. Yeah, exactly. I mean, at this point in time, Mr.
6 Magness, when you go and you sent Tommy Espy to get that
7 redemption, aren't you sitting on almost \$25 million of
8 accrued interest on your CDs?

9 A. Yes.

10 Q. So if you have to pay a three-months' interest penalty,
11 that is actually not a big deal, is it?

12 A. I don't know.

13 Q. Well, instead of doing the redemption, what you ended up
14 doing is taking out these loans at 11 percent interest.
15 Right?

16 A. Correct.

17 Q. So as you take out these loans, you're now in a situation
18 where you have borrowed money twice against the same CD.
19 Right?

20 A. No.

21 Q. Didn't you have -- didn't you tell us that you borrowed
22 the money to buy these CDs at five percent from HSBC?

23 A. And I used some of our stock to do so, not the CDs.

24 Q. So the loan that you had originally taken out from HSBC,
25 you had paid that off. And so as of October 2008, you didn't

1 owe anybody anything on these CDs. I just want to be sure I
2 understand you.

3 A. The way I got the money to buy the CDs was by taking some
4 of our stock, Liberty Media stock, in to HSBC and putting it
5 as collateral.

6 Q. For a loan?

7 A. For a loan, at which point I took and bought the CDs.

8 Q. Yes, sir.

9 A. The CDs then became the collateral for the loan that
10 you're talking about in October of '08.

11 Q. I don't believe that's correct, sir. Isn't it true that
12 no bank, none of your banks, in fact, would lend you money on
13 these Stanford CDs?

14 A. At that time I believe that's correct.

15 Q. Yeah. So when you borrow the money from Stanford to get
16 back what you think your own cash is, now you've got two loans
17 against the same CDs. Right?

18 A. No, sir. You're -- okay. Can I explain for you?

19 Q. Well, I want the jury to understand this and I'm
20 struggling to understand it, so maybe I skipped a process?

21 A. You can only use a collateral once.

22 Q. True.

23 A. Where do you see I'm using it twice?

24 Q. No, sir. I'm not suggesting you're using any collateral
25 twice, and I want to focus on this now. I've understood you

1 to tell us that the cash to buy the CDs originally came from a
2 margin loan at HSBC. Do I understand that right?

3 A. Correct.

4 Q. Okay. Now we fast forward, so now when you're trying to
5 redeem and you're told no, you took out a new loan, this time
6 not from HSBC but from Stanford.

7 A. Correct.

8 Q. Right? So you've got one loan at HSBC where the
9 collateral is your Liberty stock.

10 A. Right.

11 Q. You've got another loan at Stanford where the collateral
12 is your CD. Right?

13 A. Correct.

14 Q. But it's all to get the same money out from the Stanford
15 bank. Right?

16 A. Yes.

17 Q. Okay. That's what I'm talking about. All right. So
18 you've got two loans.

19 Now, you had originally thought it was a good idea to
20 borrow the money from HSBC, take that cash, buy the Stanford
21 CDs, because of the spread between the two. Right?

22 A. Right.

23 Q. Okay. But now you're having to take out another loan to
24 get this same cash out. That's not making as much sense, is
25 it?

1 A. No.

2 Q. And these loans, they're basically demand loans. They
3 can -- I think they say, don't they, on their face that, you
4 know, they can demand full payment any time, don't they?

5 A. I'm not sure.

6 Q. All right. Well, we're going to look at one.

7 A. Okay.

8 MR. SADLER: Let's look at Plaintiff's Exhibit 84.

9 Q. (BY MR. SADLER) All right. So Plaintiff's Exhibit 84,
10 this is one of the four loans. It happens to be the \$44
11 million loan, but I think all the terms are exactly the same.
12 All right.

13 So this is the cover letter. This is the cover letter on
14 your new loan, the \$44 million loan. That was the second of
15 the two loans, wasn't it, sir?

16 A. Yes.

17 Q. Okay. And so let's look at the actual note.

18 MR. SADLER: If we could -- I believe it is page 2.
19 And we need to just capture that top part that includes the
20 date and come all the way down to about the middle, additional
21 charges. There we go.

22 Q. (BY MR. SADLER) So this is the note, and I believe they
23 all had the same terms. Where it says, for value received, I
24 promise to pay you, the I is you, the borrower. Right?

25 A. Yes.

1 Q. Promise to pay you, the bank, Stanford bank. Right?

2 A. Yes.

3 Q. And the amount is \$44 million. That was one of the
4 loans. Right?

5 A. Yes.

6 Q. Okay. And it says, on your order or demand. Do you see
7 that language?

8 A. Yes.

9 Q. You're familiar with what a demand note is, aren't you?

10 A. Yes.

11 Q. Yeah. It means you're not on some kind of amortized
12 five-year repayment program. It is just that they can demand
13 it at any time. Right?

14 A. Yes.

15 Q. All right. And you have to pay -- in order to get cash
16 that you think is your cash, you've got to pay the bank a
17 total of 11 percent, which is about two percent over what
18 they're supposed to be paying you?

19 A. Exactly.

20 Q. Okay. And this process here of having to sign a demand
21 note and an interest rate that is above what they're paying
22 you, you had to do the same thing for each and every one of
23 those notes. Right?

24 A. Yes.

25 Q. Okay. So let's now focus -- and we can look at

1 Plaintiff's Exhibit 80. Actually hold that for just a second.
2 Hold that for just a second.

3 All right. So the sequence is, you ask for a redemption;
4 Mr. Espy reports back, after talking to the bank president, no
5 redemption; the discussion turns to a loan.

6 But in those conversations, Mr. Magness, isn't it true
7 that the bank's reason that they didn't want to redeem the CDs
8 was communicated to you? You learned why they didn't want to
9 do the redemption, didn't you?

10 A. I'm not convinced that I did. I'm not sure when.

11 Q. Well, isn't it true, sir, that you have signed under oath
12 written testimony in this case in which you swore that what
13 Mr. Espy reported back to you, after being told no redemption,
14 was that, given the general market decline, the bank wanted to
15 keep the CD on its balance sheet? Isn't that what he reported
16 back to you?

17 A. I think maybe he did something like that about, you know,
18 losing me as, you know -- having me redeem was, you know,
19 probably not the best thing for everybody else to see, me
20 cashing out. You know, the guy -- maybe they wanted me on the
21 books as a client.

22 Q. So let's talk about that because one of the things that
23 is probably an open question here is, if you had access to
24 this as a redemption, all you had to do is pay an early
25 withdrawal penalty, why do the loans? And so now I want to

1 talk to you about that subject--why do the loans.

2 Now, from your perspective, why the loan is, they told
3 you you couldn't have the redemption but you can have a loan.
4 So that's why you did the loan. Right?

5 A. Yes. I needed the money immediately.

6 Q. Sure. But from the bank's perspective, it makes sense to
7 do a loan if they're having a balance sheet problem and they
8 want to keep your CD on their balance sheet. It makes sense
9 in that circumstance from their perspective, doesn't it?

10 A. I don't know what they really wanted, but it was their
11 prerogative, not mine.

12 Q. Well, sir, during this time frame, October 2008, very
13 turbulent times in the financial markets. Right?

14 A. Right.

15 Q. But don't you know, sir, that just as they had done in
16 the summer, Stanford International Bank was telling the
17 public, we're going strong, we're going this way while
18 everybody else is going this way, and we got plenty of cash.

19 Don't you know that's what they were telling the public?

20 A. That's what they told them.

21 Q. Yeah. But you, they said, Mr. Magness, no redemption
22 because, given the general market decline, we need to keep
23 your CD on our balance sheet.

24 Didn't that cause you to wonder, what does the general
25 market decline have to do with their balance sheet? I thought

1 they were doing fine even with the general market decline.

2 Did that question occur to you?

3 A. Not in that way.

4 Q. Would it make sense that if they had been going around as
5 we've seen in the summer and even into the fall, saying, our
6 balance sheet is great, our net worth is growing, we've got
7 plenty of cash, everybody else is doing terrible, would it
8 make sense that then they'd say, yeah, but we -- we need to
9 keep our depositors' assets on our balance sheet?

10 Would that make sense to you?

11 A. You know, it was their prerogative. I just needed the
12 money immediately.

13 Q. Yeah. Now, this information that you got via Tom Espy
14 from the bank president, did you ever see in the time frame
15 Stanford International Bank in October 2008 putting out a
16 letter, putting out one of these market reports letter, to
17 investors, email, whatever it was, any kind of public
18 statement that said, we are not allowing redemptions? We will
19 make you a loan, but we're not allowing redemptions because we
20 need to keep everybody's CD on our balance sheet?

21 Did you ever see a public statement like that?

22 A. No, I did not.

23 Q. Wouldn't that be kind of an alarming public statement for
24 the bank to put out?

25 A. Not so much.

1 Q. Don't you think that that basically would have triggered
2 a run on the bank if that had gotten out publicly?

3 A. I know that it was their prerogative whether to let any
4 of the money out before the maturity date. That's what it
5 states on the CD.

6 Q. Yeah. And I'm asking you a little bit different
7 question. But let's add that.

8 Let's suppose in this time frame the bank had put out a
9 public statement that says, you know what, it's our
10 prerogative to let you have your money, but just in case you
11 were wondering, don't bother coming to ask for redemption, you
12 can't have it, we might loan it to you, but in the meantime we
13 need to keep that CD of yours on our balance sheet.

14 Did you ever see a public statement like that?

15 A. No.

16 Q. You think many people would have stayed invested in the
17 bank if they had seen that publicly in 2008?

18 A. I do not know.

19 Q. And if we look at these loans, the sequence is \$25
20 million, then \$44 million, and then 12 and 7.2 million pretty
21 much the same day. And those are your four loans. Right?

22 A. Yes.

23 Q. And if you had gone to the bank, never brought up the
24 subject of a redemption, but instead of saying, Tommy, go get
25 me a redemption, you say, Tommy go get me a loan, your

1 understanding was you could get 80 percent of your CD balance.

2 Right?

3 A. Yes.

4 Q. And at that time your CD balance was about 102 million,
5 wasn't it?

6 A. Right.

7 Q. Yeah. So 80 percent of that is right at about 81, 82
8 million, isn't it?

9 A. I guess so.

10 Q. Yeah. But the way you did this was a little differently.
11 The way you did this was you first got the \$25 million loan.
12 And two days after the cash came in, you said, well, instead
13 of paying you back cash, Mr. Bank, let's just kind of call it
14 pretty much even Steven with my accrued interest. I need to
15 send you little more cash to top it off, but let's just kind
16 of do it that way.

17 That was the deal you worked out. Right?

18 A. Yes.

19 Q. So at that point you basically get a hundred percent of
20 your accrued interest out. Not 80 percent but 100 percent?

21 A. I paid back that loan, yes.

22 Q. Well, you paid back the loan with \$24 million of interest
23 that was just words on the paper of the bank. Right? You
24 didn't come up with \$24 million in cash to pay them back.

25 A. We used the accrued interest, yes.

1 Q. Right. So the bank gave you cash on a Friday, Friday,
2 October 10th, and the following week what you gave back was
3 \$24 million in paperwork, plus about \$750,000 of real cash.
4 Right?

5 A. Right.

6 Q. Yeah. And that cleared the way for the rest of the
7 loans.

8 A. Correct.

9 Q. And so once you do that, you then borrow 80 percent of
10 the rest that's remaining, and you end up with this grand
11 total of not 82 million, now you got about 88.2 million out.
12 Right?

13 A. Yes.

14 Q. Okay. So you figured out a way to take out cash in the
15 form of loans, but get even more than the 80 percent that the
16 bank's rules allowed. Right?

17 A. I think we got 63,000 against that, but we kept part of
18 our accrued interest, yes.

19 Q. And you said thousand. I'm sure you meant million, 63
20 million?

21 A. Million.

22 Q. Okay. Now let's look at -- I just want to be sure we've
23 seen them. Let's look at -- we need to look at Plaintiff's
24 Exhibit No. 80 now. And these pages are a little out of
25 sequence.

1 What we are looking at first is your assignment, and that
2 is my first question. Every time you did one of these loans,
3 you signed a security agreement pledging your CD back to the
4 bank as collateral. Right?

5 A. Is this like 80?

6 Q. Yes, sir.

7 A. Somewhere between 73 and 81?

8 Q. It should be.

9 A. There's nothing in my book.

10 Q. There seems to be a consistent problem here. Let's look
11 on the screen or on the monitor, if you would.

12 A. Okay.

13 MR. SADLER: So let's go to the next page. And if
14 we could grab the top part just so we know what we're talking
15 about.

16 Q. (BY MR. SADLER) So you agree with me, sir, other than
17 the amount is different, 25 million, this is just like the 44
18 million loan we looked at a minute ago with the other exhibit.
19 Right, sir?

20 A. Yes.

21 Q. I promise to pay on demand, et cetera, all the terms
22 exactly the same, nothing's changed except the interest rate
23 and which CD is being pledged as collateral. That's the only
24 difference here. Right?

25 A. Right.

1 Q. Okay. And so this is the first loan, the \$25 million
2 loan.

3 Now, there are some documents that have been provided in
4 this case that I need to ask you about concerning this first
5 \$25 million loan.

6 MR. SADLER: And let's look now at Plaintiff's
7 Exhibit 223. And if we could just enlarge the top half,
8 please, so we see what we're talking about all the way down.
9 There you go.

10 Q. (BY MR. SADLER) So this is October 10, and we just saw
11 the date of the note for the \$25 million was October 10. Tell
12 me if you are there. I don't want to get ahead of you. 223,
13 are you there?

14 A. Yeah.

15 Q. Okay. So Tonya Dokken, that's your CFO. Beverly Jacobs,
16 she's the person that handles paperwork down at the bank.
17 Right?

18 A. Yes.

19 Q. And Tonya and Beverly, they'RE just processing the
20 paperwork at this point. The loan's already agreed to and
21 done. Right?

22 A. Yes.

23 Q. Okay. But what Ms. Dokken is saying, after she talks
24 about getting him, meaning you, to sign the paperwork, is
25 we're using the proceeds to pay down a loan at U.S. Bank.

1 Right?

2 A. Yes.

3 Q. Okay. Then she says, "They will release the collateral
4 and we plan to sell the underlying stock and use the proceeds
5 to repay the loan." Do you see that?

6 A. Yes.

7 Q. Okay. And that's what she said on October 10, 2008,
8 before the cash had actually arrived. Right?

9 A. Right. Okay.

10 Q. Well, you say okay --

11 A. Yes. I mean, that's what it says right here.

12 Q. Right. Well -- and you haven't signed the loan at this
13 point. Right?

14 A. I haven't signed it.

15 Q. Right. They're certainly not going to send you the cash
16 before you signed the promissory note. So you hadn't gotten
17 the cash at this point yet, had you?

18 A. It doesn't appear.

19 Q. Yeah. Okay. And what's interesting is she's talking
20 about, okay, we're going to borrow 25 million, we're going to
21 pay down a loan at U.S. Bank, and -- and remember when we
22 started talking earlier I talked about -- we looked at another
23 exhibit where you had decided to use one loan to pay down
24 another loan to the tune of \$50 million. Do you remember that
25 discussion we had?

1 A. Yes.

2 Q. That's really not very different than what's going on
3 here, is it, sir? You are borrowing \$25 million of cash from
4 Stanford, and you're just moving it over to pay down a loan at
5 U.S. Bank. Right?

6 A. We are doing that, but it's not the same.

7 Q. You're doing it, but it's not the same. Okay.

8 A. Right.

9 Q. "We plan to sell the underlying stock and use the
10 proceeds to repay the loan." Before you got this loan, Mr.
11 Espy was also involved, as we've talked about, and there's a
12 document that he wrote that I need to ask you about, and
13 that's Plaintiff's 218. Yeah. So let's look at this.

14 So now we've backed up a day. We're now on October 9.
15 We were just on Friday, October 10, when Ms. Dokken and Ms.
16 Jacobs were doing the paperwork. But now we've backed up a
17 day, and Mr. Espy is writing to Mr. Juan Rodriguez-Tolentino,
18 the bank president. Do you see that? Do you see that, sir?

19 A. Yes.

20 Q. Okay. And he mentions U.S. Bank, right, right there, and
21 he's asking about would it be possible to take out an \$18
22 million loan. Do you see that?

23 A. Yes.

24 Q. Sir, wasn't it your understanding that if you needed as
25 much as \$80 million at this point, you could get it from the

1 bank even as a loan? Right?

2 A. Only if you have collateral.

3 Q. Well, the collateral are your CDs. Right?

4 A. Yes.

5 Q. Yeah. So there shouldn't be any question about borrowing
6 18 if, under the bank's rules, you can borrow up to 80. That
7 shouldn't even be a question. Right?

8 A. Right.

9 Q. And he talks about finding out that securities had gone
10 under \$10. And you remember, I think you talked about that
11 with Mr. Petrie, that on October 1st at your Mango Five
12 meeting, it's reflected in the minutes that Ms. Dokken was
13 predicting that the stock, you know, was falling and you were
14 pretty close at that point to margin territory. Right?

15 A. Yes.

16 Q. Okay. And he's asking for a loan. But right there, and
17 we just skipped over it, see there in the top line, \$18
18 million loan against a couple of our CDs for a week to satisfy
19 a problem. Do you see that, sir?

20 A. Yes.

21 Q. So Mr. Tom Espy is saying, hey, just give us this money,
22 we'll get it back to you in a week, and then he goes on to
23 say, well, maybe even just a couple of days to cure the
24 problem. Do you see that, sir?

25 A. Yes.

1 Q. Now, was the bank, to your understanding, did it have
2 some written requirement that it would only loan money if
3 depositors agreed to pay it back in a week?

4 A. This email isn't between me and Tom. It's between Tom
5 and -- and Juan.

6 Q. That wasn't my question, sir.

7 A. Yeah, well --

8 Q. Let me re-ask my question.

9 A. Okay.

10 Q. Was it your understanding that, under the bank's rules,
11 you could borrow money against your CD, but in order to do so,
12 you had to promise to pay it back in as little as a week?

13 A. No.

14 Q. Of course not. Wouldn't make sense to do that, would it?

15 A. No.

16 Q. So this is October 9. Mr. Espy says, we need 18. I
17 guess at some point, it flipped from 18 to 25. Right?
18 Because 25 is what you got.

19 A. Correct.

20 Q. And October 10, as we just saw, you're finalizing the
21 paperwork; Ms. Dokken is saying, we're going to sell stock,
22 release the collateral, use the proceeds, pay you back. But
23 that's not how it worked. Right?

24 What you ended up doing is just using the interest to pay
25 off the loan.

1 A. Right.

2 Q. And we can see that on Plaintiff's Exhibit 227.

3 MR. SADLER: All we need to do is just focus on that
4 bottom part.

5 Q. (BY MR. SADLER) So let's kind of get fixed here. We
6 just looked at October 9. Mr. Espy writes to Mr. Tolentino,
7 \$18 million for a week. Will pay you back.

8 October 10, we just looked at, Ms. Dokken says, we're
9 going to sell stock, use that money to pay you back.

10 But here on the following Monday -- we've just gone from
11 Thursday, Friday, to Monday. On Monday, now Mr. Espy is
12 communicating, well, what we'd really like to do is just use
13 the paperwork of the accumulated interest to take care of the
14 CDs.

15 And my question to you, sir, is, you authorized this.
16 Right?

17 A. I -- I would have.

18 Q. Yeah. I mean, all the stuff we're talking about, this is
19 your money, this is your decision. Right?

20 A. Right. I'm not -- I'm not doing all the juggling, but
21 I'm needing to pay margin calls.

22 Q. Understood. Tom Espy is doing what you asked him to do.

23 A. I think so.

24 Q. Yeah. Tonya Dokken is asking what you asked her to do.

25 A. Yes.

1 Q. Right? These are people who are doing the things you
2 asked them to do.

3 A. Right.

4 Q. Okay. So we have looked -- I have looked in the trial
5 exhibits here, and maybe I've overlooked something, I don't
6 see anything in the papers that explains how you went from we
7 only need the money for a week, we're going to sell some
8 stock, use that money to pay you back, to over the weekend,
9 now it's never mind, let's just cancel out the interest.

10 Are you aware of a piece of paper in all the exhibits
11 that are being admitted here that explains how that changed
12 from Friday to Monday?

13 MR. PETRIE: Object to the preamble as facts not in
14 evidence.

15 THE COURT: Overruled.

16 The WITNESS: I don't know.

17 Q. (BY MR. SADLER) Because, of course, it can't have been a
18 change in the -- in the market. Your stock had already
19 dropped below 10, and, of course, the market's closed on the
20 weekend anyway. Right?

21 A. Right.

22 Q. So somebody changed their mind about the plan to get the
23 cash, put it over at U.S. Bank, release collateral, use that
24 cash to pay back Stanford bank, because that was Friday's
25 plan. But somebody changed their mind about that between

1 Friday and Monday.

2 And my question is, wasn't that you? It's your decision.

3 A. I had no idea we had to pay back anything, nor do I
4 remember seeing it written where we had to pay back anything
5 immediately.

6 Q. Except we've just seen the emails where Ms. Dokken is
7 saying that's exactly what you're going to do.

8 A. I hadn't seen the emails.

9 Q. And this is the \$25 million loan. Let's talk about the
10 \$44 million loan.

11 Just one -- one thing. I do think you have this. You
12 have Plaintiff's Exhibit 81 in your book. I just don't want
13 there to be any doubt about this.

14 MR. SADLER: Let's go to Plaintiff's Exhibit 81.

15 Q. (BY MR. SADLER) And Plaintiff's Exhibit 81, sir, is a
16 series of three letters, all dated October 14th, in which you
17 personally sign that you have approved this idea of taking
18 this interest, which only exists on paper, and instead of
19 paying the bank cash, you pay them with the interest, and you
20 signed all three of these letters.

21 Can you confirm that for us, sir?

22 A. Yes, sir.

23 Q. Okay. All right. Let's now move on to -- and I think we
24 can talk about all of these, the 44, the 12, and the 7.2,
25 because they're -- I don't think there's any difference here.

1 But let's talk about them.

2 MR. SADLER: Let's look at Plaintiff's Exhibit 85.
3 We haven't seen that before. And just the top part, if we
4 can, what we're talking about.

5 Q. (BY MR. SADLER) All right. Plaintiff's Exhibit 85 is
6 the paperwork for your \$12 million loan, right, sir? Do you
7 see that?

8 A. Yes, I see.

9 Q. We just flip one page, we see, I think, the promissory
10 note. Same thing other than the dates and the amounts. It's
11 the same kind of note, same kind of terms, no different.
12 Right, sir?

13 A. Yes.

14 Q. Okay. And then we go now to the next note, which would
15 be the \$7.2 million loan, Plaintiff's Exhibit 86. Similar
16 thing--it's your new loan. There's the amount, 7.2 million.

17 We go to the next page. We can just confirm, similar
18 kind of note. The only thing that's different is, of course,
19 the date and the amount. But, otherwise, it's a demand note
20 and you're promising to pay at an interest rate that's higher
21 than they're paying you. It is all the same. Right, sir?

22 A. Correct.

23 Q. Now, what's all the same is the written communications
24 that went to the bank about these next three loans also
25 describe them as short term and also describe that what the

1 plan is is that, once you get the cash from Stanford Bank,
2 you're going to use it to do something else at another bank
3 and pay Stanford Bank right back.

4 You know those communications were made, don't you?

5 A. I do not know.

6 Q. Well, let's look at --

7 MR. SADLER: Let's look at Plaintiff's Exhibit 232.
8 And let's look at the top part. Just get everybody in there
9 so we're not leaving anything out.

10 Q. (BY MR. SADLER) So now we've come forward in time about
11 ten days, and this is now Tom Espy communicating with the bank
12 and Ms. McGowan. She was one of the folks that worked with
13 Mr. Espy. Right? Pam McGowan, did you know her?

14 A. I don't think so.

15 Q. You didn't know her or you didn't know what she does.

16 A. I see that she's CCed here.

17 Q. Okay. So Mr. Espy here is talking about the loan request
18 for 7.2 million and 12 million, and he's saying again, these
19 loans are short term and the source of repayment is going to
20 be cash from existing accounts and future sales of securities.
21 Do you see that?

22 A. Yes.

23 Q. But, of course, we know that never happened. Right?

24 A. That's right.

25 Q. And just to be sure we haven't skipped over any, if we go

1 to, I think, the bottom of this string, we can see that this
2 whole email string is picking up -- well, let me stop here.
3 Let's pick up the purpose of the loan, right here. This is
4 the information the bank is asking about there at the bottom
5 of the first page of 232 --

6 MR. SADLER: If we could just enlarge that.

7 Q. (BY MR. SADLER) Do you see that, Mr. Magness?

8 A. Yes.

9 Q. What the bank is asking about, tell us the purpose and
10 tell us the source of repayment. And that's what Mr. Espy has
11 just provided.

12 But if we go back a little bit further in the document,
13 we can see that they are not only talking about the \$72
14 million loan and the \$12 million loan, they're also talking
15 about the \$44 million loan.

16 Can you find the reference to the \$44 million loan, sir?
17 I think Mr. Jarrett can help us out by finding the reference.

18 A. I was trying to get away without doing it.

19 Q. Do we have it yet? There it is. We're staring right at
20 it. It was right in front of us.

21 A. Okay.

22 Q. Loan request for the \$44 million loan. So in this whole
23 email string, Mr. Espy is advising the bank that for the three
24 other loans, very similar to what he told the bank on your
25 behalf for the first loan, these are all short term, we're

1 going to take this money, and we're going to get the money
2 right back by selling securities and raising cash.

3 That's what was communicated to the bank. Right, sir?

4 A. I -- I don't see where that's communicated.

5 Q. Well, let's go back just to be sure we haven't missed
6 anything. We talked about it just a second ago. Go back to
7 the first page of 232. Let's go back to the first page of the
8 exhibit. Right there at the top, Mr. Espy tells the folks at
9 the bank the loan is short term, and the source of repayment
10 will be cash from existing accounts and future sales of
11 securities. Do you see that?

12 A. Yes.

13 Q. Okay. But that didn't happen, did it?

14 A. No, it did not.

15 Q. Now, I want to ask you about this cash from existing
16 accounts. What's going on here, right, Mr. Magness, is cash
17 is coming out of the Stanford bank to you. Right?

18 A. Right.

19 Q. And what Mr. Espy is saying is, we're going to repay it,
20 but we're going to repay it from cash from our existing
21 accounts and selling stock in the future. You see he's
22 communicating that?

23 A. Right.

24 Q. That doesn't seem to make a lot of business sense, does
25 it, to take out a loan at such a large interest rate and

1 saying, well, we're going to pay it back by taking cash from
2 somewhere else? That doesn't make a lot of sense, does it?

3 A. In some future date, you'd need to pay back the note.
4 You have two ways of doing so. You wait for the maturity,
5 which was 2010 on one of these pieces of paper. You wait for
6 the maturity or you wait for your stocks to go up to where
7 they don't look like they're going to go up that much more and
8 you might sell and pay it off, if you chose that you wanted a
9 nine percent CD.

10 Q. Yeah. The only thing you didn't mention is the fact that
11 because these are demand notes, before any of that stuff
12 happens that you just described, the bank could wake up one
13 morning and say, cash needs to come back, we need to be
14 repaid. That's what a demand note is, isn't it?

15 A. Right.

16 Q. Okay. So I'm sure that the idea that you had now just
17 signed on the dotted line for \$44 million, \$12 million, \$7.2
18 million in demand notes, it must have been on your mind, wow,
19 what if we get two or three weeks down the road, and instead
20 of being short term, I really need to take more time to pay
21 them back. What if the bank just sends me a letter demanding
22 the money? Surely that must have been on your mind.

23 A. What -- at that point what was really on my mind was
24 taking care of the margin call.

25 Q. And what you did here with the 25 million--the 44, the

1 7.2, and the 12 million--you took that cash out of one bank,
2 Stanford International Bank, and you spread that cash over a
3 bunch of different banks--HSBC, Merrill, U.S. Bank. Right?

4 A. Right.

5 Q. Okay. Again, like we talked about, you're taking big
6 wads out of cash out of one bank and for reasons you're
7 putting it in different places. That's what's going on here.
8 Right?

9 A. Similar.

10 Q. Yeah. And as we talked about earlier, one good reason to
11 move a whole bunch of cash out of one bank and into some other
12 banks is if you figure out the first bank is an unsafe place
13 to have your cash. That would be a really good reason to move
14 that cash out of it, wouldn't it?

15 A. That could be. But that's not what happened

16 Q. We're here in October 21st. The last loan gets funded,
17 you know, later this month, about October 28. Right?

18 A. Right.

19 Q. Somewhere right in there. The next meeting that you have
20 of the investment committee is that December 5 meeting.
21 Right?

22 A. Correct.

23 Q. Yeah. Which is, I don't know, five weeks later, a little
24 more than a month. Right?

25 A. Right.

1 Q. And one of the things you do, as we've already seen a
2 little bit at this meeting, is you guys kind of pause and
3 reflect on kind of here's what's been going on in this very
4 busy time the last couple of three months since we last met.
5 Right?

6 A. Right.

7 Q. Okay. Let's go to Plaintiff's Exhibit 92. And if we
8 could go to the discussion, which we've seen for other
9 reasons, but go to the discussion about the Stanford
10 certificates of deposit.

11 MR. SADLER: It's paragraph 4. Blow that all up.

12 A. (BY THE WITNESS) Wait a second here.

13 Q. (BY MR. SADLER) Yeah. Just take your time.

14 A. Okay. I'm on exhibit --

15 Q. It should be 92, sir. It should be in your book.

16 A. I've got 482. Just plain 92?

17 Q. 092. Yes, sir. And it's on -- if you skip the agenda --
18 we looked at this before. It's on the first page.

19 A. Okay. Yes.

20 Q. Okay. And it's not very long. We can all look at it.
21 And in a minute we'll go over to the next page just to be sure
22 we're not missing anything.

23 But in the first two paragraphs here, you will agree,
24 first, there is no discussion here about repaying the loans
25 that you had just taken out to Stanford International Bank.

1 That's not discussed anywhere in here, is it?

2 A. No.

3 Q. And I guess you'd agree with me that at the--this is the
4 very next investment committee meeting after you've taken all
5 these loans out--there is no discussion in here in these
6 minutes that say that the reason you took the loans out was
7 you needed to pay down margin calls. That's not discussed
8 here, either, is it?

9 A. No.

10 Q. And let's go to the next page just to be sure that we're
11 not missing any language. So let's go one page over and grab
12 those last couple of sentences at the top. This mentions
13 something about a significant infusion of capital. That
14 doesn't have anything to do with you paying back loans, does
15 it?

16 A. No.

17 Q. Okay.

18 MR. SADLER: So let's go back to the first page
19 where we were and blow that up again.

20 Q. (BY MR. SADLER) Now, sir, I think you covered this with
21 Mr. Petrie, but let's just be sure we understand this process.

22 The minutes we're looking at were approved not on
23 December 5. They were approved at the next meeting, which was
24 April. Right, sir?

25 A. The '05 -- or 12/5 meeting would have been in April,

1 yeah.

2 Q. So at the April meeting --

3 A. Yes.

4 Q. -- that's when these minutes were approved. And you're
5 aware, sir -- and you attended the meeting. We talked about
6 this. Right?

7 A. Let's see. Okay. The minutes of the '05
8 meeting -- well, it's not on this page, I don't think. This
9 is the minutes for the 08 October.

10 Q. Yes. So what we need to do is we need to look at the
11 minutes of the April meeting which talk about approving these
12 things we're looking at. So let's do that now, Plaintiff's
13 Exhibit 114.

14 A. Okay.

15 MR. SADLER: We just captured item No. 1. Mr.
16 Jarrett, if you could take that down so we are capturing the
17 whole top plus item No. 1, please. Go back to the first page.

18 Q. (BY MR. SADLER) So we're looking at the April minutes,
19 and the first order of business is approve the minutes of the
20 December 5 meeting. Are you with me?

21 A. Yes.

22 Q. Okay.

23 MR. SADLER: Now let's go to the second page of this
24 document, and if we just highlight or enlarge that whole top
25 section, including paragraph numbered 1. I want paragraph

1 numbered 1, please. Thank you.

2 Q. (BY MR. SADLER) Just, again, to talk about this is the
3 meeting where you're there, we've got Sutton, we've got
4 Knudson, we've got Dokken, we've got Tommy Espy, we've got
5 that fellow Chuck Wilk, and we've got Bob Armstrong.
6 Everybody is there, and the first order of business is to
7 approve those minutes that we just looked at, which are
8 Plaintiff's Exhibit 92. Are you with me?

9 A. Yes.

10 Q. Okay. And that's what -- that's the normal order of
11 business. First order of business, approve the written record
12 of what happened at the last meeting. That's the way you guys
13 did it.

14 A. Right.

15 Q. Okay.

16 MR. SADLER: Now, if we could go over in this
17 document to the discussion -- specific discussion of Stanford,
18 and let's go to the next page. I think it is -- let's go to
19 the second page, please. Yeah, report on Stanford, item No.
20 3. If we could enlarge item No. 3.

21 Q. (BY MR. SADLER) Now, let's again keep the timing
22 correct. What we're now looking at are the minutes of what
23 you guys discussed in April 2009. Are you with me?

24 A. Yes.

25 Q. Okay. By this time the bank has already been shut down

1 by the government, Mr. Janvey is already on the job as the
2 Receiver in the Receivership. You know that. Right?

3 A. Yes.

4 Q. Okay. And, in fact, what's talked about here -- I guess
5 first let's establish nothing's being discussed here about we
6 took loans to pay down margin calls. That doesn't appear
7 anywhere in here, does it?

8 A. No.

9 Q. What does appear is that the loans had been paid not with
10 cash, but you had just had them set off again against the
11 certificates, just kind of like you did with your accumulated
12 interest. That was discussed here. Right?

13 A. Right.

14 Q. Okay. But nothing in here about taking out the loans in
15 the first place for margin calls. That's just not discussed
16 here, is it? Nothing here about that, is there, sir?

17 A. No.

18 Q. So let's go to the first page and TO the first numbered
19 paragraph. Let's talk about approval of these December 5
20 minutes.

21 What happens, sir, is that at this meeting Mr. Sutton
22 showed up with a draft copy of the December 5 minutes. And
23 you were there; you know that happened. Right?

24 A. I don't know that happened, no.

25 Q. You don't know that Mr. Sutton showed up with a draft set

1 of the minutes from the December meeting?

2 A. I -- I -- I think he -- he came with one. He came with
3 three, I think.

4 Q. Yeah. Okay.

5 A. But that's just because of what I know now.

6 Q. All right. Well, so you know now that what Mr. Sutton
7 did is he showed up at the meeting not with signed minutes but
8 with draft minutes. And the first order of business was
9 discussing what should go in the minutes before they're
10 signed. Right?

11 A. Right.

12 Q. And you know, do you not, sir, that one of the things you
13 guys discussed is that Mr. Sutton had put some things in the
14 draft minutes that were not in the final minutes. You
15 discussed that.

16 A. I know that now.

17 Q. Yeah. And it's not admitted yet so we won't put it up on
18 the screen. Would you look at Plaintiff's Exhibit 384 in your
19 book? Just tell me when you have Plaintiff's Exhibit 384.

20 A. I have it.

21 Q. You have it. Okay. And can you identify for us that
22 Plaintiff's Exhibit 384 states that it is the December 5, 2008
23 minutes of the annual committee of the investment committee of
24 Mango Family Five, Inc., listing you and the others we have
25 discussed in attendance, but it is on the third page not

1 signed?

2 A. Correct.

3 Q. And this is one of the drafts that was discussed at the
4 meeting.

5 A. What I have here is for the meeting of December 5.

6 Q. Yes, sir.

7 A. And it's approving the minutes of October 1.

8 Q. Yes, sir.

9 A. That's what you're asking?

10 Q. What I'm asking is, approval of December 5 minutes, that
11 occurred at the April meeting we've been discussing. Right,
12 sir?

13 A. How could it be?

14 Q. Listen to my question, sir.

15 A. Okay.

16 Q. Approval of the December 5 minutes is what you guys
17 discussed at the April meeting. Right? That's the sequence.

18 A. Yeah, but I don't see -- I don't see the paperwork in
19 front of me about the April meeting.

20 Q. No, sir. I'm not asking you --

21 A. Okay. All right.

22 MR. SADLER: I think, Your Honor, at this point
23 because I have some more questions about these draft minutes,
24 I'll offer 384. You ruled on it in connection with the Sutton
25 deposition.

1 THE COURT: I'm sorry. Remind me what 384 is.

2 MR. SADLER: Plaintiff's Exhibit 384 are the draft
3 minutes of the December 5 meeting that Mr. Sutton testified
4 about.

5 THE COURT: Any objection?

6 MR. PETRIE: I don't think there's foundation from
7 this witness, Your Honor. No foundation.

8 THE COURT: Well, let's see if he recognizes them.

9 Q. (BY MR. SADLER) Mr. Magness, I think you just told us
10 that Mr. Sutton showed up at the meeting with three drafts of
11 the minutes. You told us that just a minute ago?

12 A. I know that now. I did not know that three days ago.

13 Q. Okay. And isn't it true, sir, that the document in front
14 of you is at least one of the versions of the draft meeting
15 minutes that you guys discussed at the April meeting?

16 A. I guess that's what it says. Okay?

17 MR. SADLER: Offer 384.

18 THE COURT: It's admitted.

19 Q. (BY MR. SADLER) And the reason we're going on and on
20 about these December 5 minutes, Mr. Magness, is you know that
21 there are things in the draft minutes that you're looking at,
22 384, that never made it into the final minutes, Plaintiff's
23 92. You understand that's what I'm talking about.

24 A. Yes.

25 Q. Okay. And the reason these things, which we're about to

1 talk about, didn't make it into the final signed minutes is
2 because when Mr. Sutton showed up with the draft minutes,
3 somebody objected to a couple of things he put in the minutes.
4 You remember that from the meeting?

5 A. That's what I know of now.

6 Q. Okay. And, of course, if there were objections to
7 something in the minutes, you guys would have to resolve that
8 and then vote to approve whatever the final version was.
9 Right?

10 A. Right.

11 Q. Okay.

12 MR. SADLER: So let's go back to Plaintiff's 92. Go
13 to the last -- this is the December 5 minutes. Go to the last
14 page. Blow that up for us.

15 Q. (BY MR. SADLER) So Plaintiff's 92, just to be crystal
16 clear, this is what ultimately got signed and approved on
17 April 9, 2009, signed Ray Sutton. This is what finally got
18 approved. Right?

19 A. Yes.

20 Q. Okay. Now, we have created a slide just to make it easy
21 on all of us because it's kind of hard to get the whole
22 exhibit side by side, but we need to look at what's different
23 about these minutes as that relates to Stanford.

24 So if we could put up the comparison slide that just
25 takes the language from 384, the draft minutes that have just

1 been admitted, and compare it to 92, the signed minutes.

2 Are you able to see that on your screen, sir?

3 A. Yes.

4 Q. So what we're looking at on the left is the signed
5 minutes. What we're looking at on the right is the draft
6 minutes. And we're focusing on the paragraph that's already
7 been discussed, report of Stanford certificates of deposit.
8 Do you see that?

9 A. Yes.

10 Q. And we see -- and we've highlighted it just to make it
11 easy for everybody to focus on. We've highlighted two
12 sentences that are in the draft minutes but never made it into
13 the final minutes. Do you see the highlighted sentences?

14 A. Yes, I do.

15 Q. And what's in the draft minutes of what you guys talked
16 about on December 5, 2008, is Mr. Sutton is making some
17 comments there. Do you see his comments?

18 A. Yes, I do.

19 Q. And isn't it true, sir, it's right in front of us, that
20 what the draft minutes reflect, first, is that Mr. Sutton is
21 advising that if the bank -- if the bank went into
22 receivership, you couldn't use the loans to offset the
23 certificates. The loans wouldn't offset them.

24 That's what he's commenting on in the first highlighted
25 part. Right?

1 A. That's correct.

2 Q. Okay. And this is a comment that comes right after what
3 we've already discussed, which was as we can see it there,
4 this is you asked Mr. Espy to go get a redemption. After the
5 bank said no, you got the loans. That's his last comment on
6 that section. You see it there?

7 A. Right.

8 Q. And then the next comment that is different from the
9 draft minutes to the signed minutes is Mr. Sutton says if the
10 bank went into receivership under United States law, GMIT, the
11 Trust, you'd have to pay back that \$25 million you took out.
12 Do you see that?

13 A. Yes.

14 Q. And this is Mr. Sutton, who's part of your advisor group,
15 the lawyer at Baker and Hostetler. That is who is making
16 those comments. Right, sir?

17 A. Correct.

18 Q. And, of course, what's interesting about the fact that
19 you guys would be talking about this in December of 2008 is,
20 of course, Mr. Janvey doesn't come on the screen for another
21 three months. You know that.

22 A. Right.

23 Q. Yeah. And certainly you'd agree with me, there wasn't
24 anything in the public not being published, Bloomberg, pick
25 your news service, anywhere, that there was any thought,

1 concern, worry, suspicion, that the Stanford International
2 Bank was about to go into receivership. That wasn't public
3 knowledge, was it?

4 A. Not in 5 December of '08.

5 Q. That's right. But you guys were already talking about
6 that three months before Mr. Janvey came along, three months
7 before the government shut down the bank, and that's because
8 you already knew the bank was in financial trouble. Isn't
9 that true?

10 A. That's not true.

11 Q. Isn't it true, sir, that by this time you knew the bank
12 had been lying to cover up its balance sheet problem? You
13 knew it by this time, didn't you?

14 A. No, sir.

15 Q. It's interesting because I believe I heard your lawyer
16 suggest that kind of what was a real sort of, you know,
17 light-bulb moment for you guys didn't come until December, and
18 it was when this Ponzi scheme or Bernie Madoff was arrested.
19 Do you remember him talking about that yesterday?

20 A. I -- I believe he talked about that.

21 Q. Yeah. And that somehow that changed your view and
22 changed everybody's view of the world. Do you remember him
23 making statements like that? And I'm paraphrasing, that's not
24 a quote, but you remember what he said. Right?

25 A. Yes.

1 Q. Yeah. But, of course, as of December 5, there wasn't
2 anything in the newspapers about Bernie Madoff. He hadn't
3 been arrested. His Ponzi scheme had not been exposed, had it?

4 A. It had not.

5 Q. Right. So somehow you guys sitting around the Wynn
6 casino on December 5th talking about what you did back in
7 October, somehow you guys knew that this bank, Stanford bank
8 that you had gotten \$88 million from, was about to go into
9 receivership. You guys knew that.

10 A. No, we did not.

11 Q. Well, let's examine the possibilities. Are you telling
12 this jury that your lawyer, your advisor Mr. Sutton, just
13 dreamed this stuff up and wrote it down in the draft minutes?

14 A. No, but he'd slept quite a few months before he found
15 that out.

16 Q. He slept quite a few months before he found that out.
17 Let me ask you about that.

18 I think what you're trying to suggest -- correct me if
19 I'm wrong. But I think what you're trying to suggest is
20 somehow Mr. Sutton confused his meetings, and I think what
21 you're trying to suggest is you guys talked about receivership
22 and all that stuff in April after Mr. Janvey was appointed,
23 but you didn't talk about it in December. Is that what you're
24 suggesting to us?

25 A. Yes.

1 Q. Ahh. Okay. Well, you realize, sir, there's -- there's a
2 little fly in the ointment of your theory here, because if you
3 look at what Mr. Sutton says twice, he's talking about if the
4 bank went into receivership. That sounds like it hadn't
5 happened yet, doesn't it?

6 A. It does.

7 Q. Yeah. But, of course, if your theory, oh, he's confusing
8 April with December is true, well, by April the Receivership
9 is already there. It's been going on for six weeks. This
10 thing is nationwide news by April. Right?

11 A. Yes.

12 Q. Nobody--nobody--would be sitting around in April talking
13 about if Stanford Financial went into receivership because it
14 had already been in receivership for six weeks by that point.
15 Right?

16 A. I'm not sure.

17 Q. You are sure because you told us not two hours ago, in
18 response to your counsel's questions, that February 18th when
19 the government shut down Stanford, that was a date you
20 remembered. Right?

21 A. Yes.

22 Q. February 18th is prior to April, isn't it?

23 A. Yes.

24 Q. Okay. So when you guys are sitting around the Wynn
25 casino in April of 2009, this is all over the news, Mr. Janvey

1 has been appointed, it is no secret, this is a big deal.

2 Right?

3 A. Right.

4 Q. And let's be clear. When this happened in February 2009,
5 you recall, sir, this was nationwide news when the SEC filed a
6 lawsuit, shut down Stanford, and appointed a Receiver. It was
7 all over the news. Right?

8 A. I knew that they shut it down. I don't know if that's
9 the same day that they got Janvey for the receivership.

10 Q. Okay. Well, Mr. Janvey can talk about the day he came
11 in. Just trust me, it was right there around February 17th.

12 So going back to this, Mr. Sutton is talking about things
13 not that have already happened; he's talking about what's
14 about to happen and he's doing that in December in a room at
15 the Wynn casino with you and the others. That's when this
16 discussion is happening.

17 A. These are draft notes that he made before the meeting
18 that never were signed or approved at that meeting. These are
19 his thoughts, not ours or mine.

20 Q. Okay. And you're right they weren't approved, because
21 somebody told him, take those sentences out before we finalize
22 the minutes. That's how they were removed. Somebody told
23 him, take those out. Right?

24 A. Right.

25 Q. Yeah. And if we go back to the -- and that happened.

1 Take those statements out of the draft minutes, that decision
2 was made at the April meeting, wasn't it?

3 A. Yes.

4 Q. Yeah.

5 A. Or thereabouts. Could have been the day before.

6 Q. Could have been the day before. But it wasn't back in
7 January.

8 A. No.

9 Q. No. Let's go back to 114, which I hope I guessed
10 correctly are the April minutes.

11 MR. SADLER: There it is. So go back to paragraph
12 one, which is one page over, approval of the minutes.

13 Q. (BY MR. SADLER) First order of business, approval of the
14 minutes. Let's remind ourselves, right above that, who was
15 there because I need to ask you about that specifically.

16 A. Okay.

17 Q. Let's just take them one by one. Was it Mr. Armstrong,
18 Robert E. Armstrong, the trust lawyer who objected to those
19 sentences being in the minutes and said, hey, guys, we ought
20 to take those out? Was that his suggestion?

21 A. I do not know.

22 Q. What about Charles Wilk? He hadn't gone to prison by
23 now. Was it his idea?

24 A. I seriously doubt it.

25 Q. What about Tommy Espy? Was it his idea to take those

1 sentences out?

2 A. No.

3 Q. What about Tonya Dokken? Was it her idea to take those
4 sentences out?

5 A. Maybe.

6 Q. Well, we can probably agree on one thing: It probably
7 wasn't Mr. Sutton's idea to take them out because he's the one
8 that put them in. Right?

9 A. That I can't tell you, either.

10 Q. Okay. Well, we've kind of run out of people until we get
11 to you, Mr. Magness. Was it basically your idea, your
12 instruction, to take those things out?

13 A. No, sir.

14 Q. So I think what you're telling us is somebody objected,
15 they were taken out, but you can't tell this jury whose idea
16 it was to take them out.

17 A. I don't think we discussed it at the meeting. I
18 think -- I don't -- maybe he showed those to somebody at the
19 meeting and so therefore we decided that we weren't going
20 to -- we needed to rewrite them, because the fact is that he's
21 messing up history with -- with fact, and it needed to be
22 fixed.

23 Q. Needed to be fixed. He was messing up the history that
24 you guys wanted to leave --

25 A. No, no.

1 Q. -- in your written records.

2 A. No. What went down between December 5th and April was
3 what he was -- he was writing down, saying that we thought
4 about it in December, was not correct. Therefore it was not
5 signed.

6 Q. Seems like the one thing you are sure about is somebody
7 disagreed -- let's go back to the comparison just to be sure
8 we know what we're talking about.

9 Somebody disagreed with having those two sentences in the
10 final signed minutes, and they were taken out. Are we agreed
11 on that?

12 A. Right.

13 Q. And, of course, if, in fact, you guys were talking about
14 what Mr. Sutton says you were talking about in December 2008,
15 three months before the Receiver comes on board, then the
16 story that you've told this jury, both of those can't be true,
17 can they?

18 A. Which part are you talking?

19 Q. Well, sir, I heard you say just a couple of hours ago in
20 response to questions from Mr. Petrie, you know, February,
21 that's -- that's kind of when I saw and maybe I knew something
22 in January that something might be wrong. Well, that story
23 can't be true at the same time this is true, can it?

24 A. Yes, it can.

25 Q. You can both know about it in December and not know about

1 it in December?

2 A. Because the 15th of December when Bernie Sanders (sic)
3 was brought in light, that didn't -- that didn't make us think
4 greatly of our position. It made us wonder possibly, but it
5 didn't say, by the way, we have a Ponzi scheme. It's the
6 first time we'd ever heard of a Ponzi scheme.

7 Q. And I think we came to an understanding a few minutes ago
8 that if we're talking about the December 5 meeting, the
9 December 5 meeting, Madoff hadn't come to light as of --

10 A. Correct.

11 Q. Right. That was later.

12 A. Correct.

13 Q. But let me ask you about that since you brought it up. I
14 think you were pretty clear with Mr. Petrie that up until the
15 moment of Madoff, you felt real confident about the bank. You
16 weren't worried about the bank. You had no idea anything was
17 wrong. Is that your testimony?

18 A. Correct.

19 Q. Okay. So setting aside all the words we're seeing here
20 and now just focusing on -- on madoff, so Madoff comes out and
21 the headline is New York banker Bernie Madoff arrested in
22 Ponzi scheme scam.

23 A. Right.

24 Q. And your first thought is, huh, I wonder if Stanford's
25 also a Ponzi scheme?

1 A. It wasn't my first thought, but there was people that
2 speculated.

3 Q. Yes. Yes. And, of course --

4 A. And it wasn't Ray Sutton.

5 Q. Oh, it wasn't Ray Sutton.

6 A. It was not.

7 Q. Oh, okay. Let me eliminate all possibilities. Ray
8 Sutton is a lawyer. Right?

9 A. Correct.

10 Q. Is he a fortune teller? Can he see the future?

11 A. No.

12 Q. Okay. Now, let's take this document down. It was a
13 very, very important document that you and Mr. Petrie talked
14 about just right before lunch and I need to go back to that,
15 because it is a document I have some questions for you about.

16 2008 you get all this cash out of the bank. Right? I
17 need an answer, sir.

18 A. Yes.

19 Q. 2009 you have to like everybody else in the world in the
20 United States at least, you've got to prepare your taxes
21 talking about money and things that happened in 2008. That's
22 the sequence. Right?

23 A. No.

24 Q. In 2009 you and your advisors and tax professionals
25 prepared your return for the tax year 2008.

1 A. We asked for extensions in April and file them in
2 October.

3 Q. I think we're going to see you filed them in September
4 but can we agree on the year? You filed your '08 return in
5 2009.

6 A. Perfect.

7 Q. Okay. That's all we're getting so far.

8 A. Okay.

9 Q. Now, part of what you were doing and you mentioned this a
10 little bit is when you filed your tax return for 2008, you had
11 to explain to the IRS something about that first 25 million
12 that came out in cash from the bank. You had to --

13 A. Yes.

14 Q. -- tell them a story about that, what happened. And it's
15 because. Right? If it's taxable you are going to owe them
16 taxes on it.

17 A. Correct.

18 Q. And you know, taxes on 25 million I'm sure you are kind
19 of in a high bracket. What is that? Like 7, 8 million
20 dollars you might owe?

21 A. It would be quite a bit.

22 Q. Yeah, quite a bit. So part of the preparation of that
23 return was to explain to the IRS what happened, how you got
24 that cash, and why it's not taxable. That's part of what
25 you're doing?

1 A. Correct.

2 Q. Okay. So we need to look at your returns. And I think
3 this is clear but let's just be crystal clear. You signed
4 those tax returns you know under penalty of perjury. Right?

5 A. Yes.

6 Q. And maybe it's just perjury but you know people can go to
7 prison for lying on their taxes. Right?

8 A. Yes.

9 Q. Apparently Mr. Wilk found that out.

10 A. Right.

11 Q. So let's look at Plaintiff's Exhibit No. 483. And this
12 was -- I think it is -- There are actually two of these I
13 think only one of them but we actually need to talk about both
14 of these. You recognize Plaintiff's Exhibit No. 483. This is
15 your personal income tax paperwork for the tax year 2008.

16 A. Right.

17 Q. There's a separate document you know exists that's the
18 tax return for the same year.

19 A. Correct.

20 Q. Two separate documents. Okay. And we're going to look
21 at it in just a second, sir, but I just -- I need to ask you
22 this question. Didn't you tell the Internal Revenue Service
23 in your tax filing that the reason you took the loans was bec
24 you believed your investment at Stanford International Bank as
25 of October 2008 was in jeopardy? Isn't that what you told the

1 IRS?

2 A. No.

3 Q. All right. Let's look and see what you actually said.
4 Let's go to the next -- Well, let's hold on. Let's blow this
5 up just to see what we're looking at because it's kind of hard
6 to see. So let me first ask you, Ahrhardt, Keefe, Steiner and
7 Hottman, PC. Are those your tax lawyers the people signing
8 this cover letter?

9 A. Yes.

10 Q. Okay. And all we're looking at is they are sending you,
11 Gary, and your wife I assume. Right?

12 A. Yes.

13 Q. Sarah, they filed your tax return they're just sending
14 you a copy. Right?

15 A. Correct.

16 Q. Okay. So what we're about to look at is the filed return
17 they are just sending you a copy here. Right?

18 A. Correct.

19 Q. Let's look at the next page let's capture the top to see
20 what we are talking about here. So that's your 2008 1040
21 there you are Gary Magness?

22 A. Yep.

23 Q. Okay. Let's go to the next page and let's see who signed
24 off on it down there. Now, it was prepared obviously by your
25 professionals but you had to sign it and right there as we all

1 know it says you're signing under penalty of perjury. Right?

2 A. Yes.

3 Q. Okay. Pretty serious business wouldn't you agree with
4 me?

5 A. Yes.

6 Q. Okay. I need to ask you about this. So (Hottman) when
7 you tell the IRS here you don't tell them your occupation is
8 investor. Your occupation is ranch manager?

9 A. Yes.

10 Q. Okay. But your wife is also an investor.

11 A. Yes.

12 Q. Okay. So this tax return had a whole bunch of stuff in
13 it if we were to look at the whole thing it is 70 to 80 pages.
14 Right?

15 A. Some amount of pages.

16 Q. But you had to file a very specific form to explain to
17 the IRS what happened with that \$25 million. Right, sir?
18 Specific form that deals with that.

19 A. I presume.

20 Q. Let's look at it. Let's go to the next page. And let's
21 enlarge that at the top so we can see what we're talking
22 about. So what you filed and presented to the IRS for
23 consideration was what's known as form 8275 disclosure
24 statement. And there you are. That's your name Gary Magness.
25 Right?

1 A. Yes.

2 Q. Okay. And you are identifying to them cash that you have
3 received from Stanford International Bank and as we're going
4 to see you broken it out between these two different returns
5 but this tax return deals with 8.8 million of the 25 million.
6 Do you see that?

7 A. Yes, sir.

8 Q. Okay. And so this form is the form you used to explain
9 to the IRS here's where this cash came from and here's why I
10 shouldn't have to pay taxes on it. That's kind of the general
11 idea of this form. Right?

12 A. Yeah it's for my tax preparers to figure it out yes.

13 Q. It's not that wasn't my question. My question is, this
14 is the document you use to tell your story to the IRS to avoid
15 paying taxes on that money. Right?

16 A. I don't use it. They used it. I sign it and pay my
17 taxes.

18 Q. You sign it swearing that it's true?

19 A. Correct.

20 Q. Okay. And you want the IRS to believe the story you put
21 in this form. Right?

22 A. Yes.

23 Q. Okay. Of course. Because you don't want to have to come
24 up with an extra seven, eight million in taxes, do you?

25 A. Correct.

1 Q. So let's look at what the story is you told the IRS on
2 the next page. Let's enlarge everything so we can see it all
3 and not leave anything out. Let's take it pretty much line by
4 line. All right. Here is your explanation. You see there at
5 the top, sir?

6 A. Yes.

7 Q. Explanation. Starts off with taxpayer that's you.
8 Right?

9 A. Right.

10 Q. And then it has this language about disregarded single
11 member LLCs. That's just referring to the companies that were
12 involved in purchasing the various certificates of deposit.
13 Right?

14 A. Correct.

15 Q. Yeah. And it says these taxpayer through these companies
16 bought Stanford CDs in 2004 and 2005 and that's absolutely
17 true, isn't it?

18 A. Correct.

19 Q. Sure. That's some of the CDs we were talking about in
20 this lawsuit, isn't it?

21 A. Correct.

22 Q. Yeah. And then you pick out the particular one for GMAG
23 that's one of your single member LLCs, and say the face amount
24 was 15 million and then the face amount for the mag security
25 CDs was 9 million. Both of those are true statements, aren't

1 they?

2 A. Yes.

3 Q. Okay. And then let's look now where it gets a little
4 interesting. It says in October 2008, the taxpayer received
5 funds from Stanford as a loan secured by the CDs." Also a
6 true statement, isn't it?

7 A. Yes.

8 Q. Yeah. And then it says, "Due to the investigation of
9 Stanford which was active in 2008, the taxpayer--that's
10 you--was concerned his CD principal was in jeopardy." Also a
11 true statement. Right, sir?

12 A. I'm not sure what all that means.

13 Q. Well, let's break it down. First let me ask you, is it a
14 little troubling that you signed a statement to the IRS under
15 penalty of perjury and now you don't really know what it
16 means? Is that troubling to you?

17 A. Yes. I -- You know, it says I'm talking about an
18 investigation in '08 as though this was in '08 when it was
19 filed it wasn't it was October of '09. Possibly another one
20 of these rearranging of history, but nevertheless, exactly
21 true do you really want to pay interest on or pay income tax
22 on interest earned when you never got fully all your principal
23 back in the first place. So it's how you treat your taxes how
24 you file your taxes.

25 Q. I understand we're clear on why you're doing this. You

1 don't want to have to pay taxes on this cash. Right?

2 A. Yeah, because it's not due. It's not due if it's only
3 principal.

4 Q. Okay.

5 A. Returned.

6 Q. Okay. But the important part here is you talk about you
7 signed the statement submitted to the IRS which let me ask you
8 just to be clear. Did they reject this? They accepted it,
9 didn't they?

10 A. As far as I know.

11 Q. Yeah. Well you'd know if they came back at you and sent
12 you a bill for seven, eight million dollars?

13 A. My life's fairly complicated.

14 Q. Somebody would have brought that to your attention?

15 A. I think so.

16 Q. Yeah. So this investigation of Stanford which was active
17 in 2008, the only investigation that any of us have talked
18 about is that investigation that the SEC was doing.

19 A. Yes.

20 Q. Yeah. And the taxpayer was concerned his principal was
21 in jeopardy. You understand what in jeopardy means it means
22 it's at risk it's about to be lost. That's what that means?

23 A. I don't know what that referred to.

24 Q. Do you understand what the word jeopardy means?

25 A. Yes.

1 Q. And I'm not talking about the game show. What does it
2 mean to you?

3 A. Well, I do know that I left 20 percent --

4 Q. No, sir I'm asking you a specific question. What does
5 the word jeopardy mean to you?

6 A. At risk.

7 Q. Yeah. You were concerned your CD was at risk in October
8 2008 which just so happens to be the time you took out the
9 loans. Right?

10 A. It's -- It can be misconstrued.

11 Q. Misconstrued. Okay. Now, you know, sir, that you filed
12 two returns but you know, don't you, that you gave the IRS
13 almost word for word the exact same explanation on your other
14 tax return. You know that, don't you?

15 A. Yes.

16 Q. Okay. Well let's look at it to be sure. So let's take
17 this down and look at Plaintiff's Exhibit No. 482. Gary
18 Magness Irrevocable Trust. This is their income I say their
19 this is your trust's income tax return. Right?

20 A. Yes.

21 Q. And if we look at the bottom it's prepared by the same
22 firm of professionals same as the ones we just saw. Right?

23 A. Yes.

24 Q. Then let's look at the next page. Let's look at the
25 letter. And once again, the return's been filed, you

1 professionals are just sending you a copy showing that it's
2 been filed. Right?

3 A. Yes.

4 Q. Yeah. Okay. So let's look at the first page I'm sorry
5 the first page of the tax return. Thank you. A little bit
6 different numbering because this is a trust but this is the
7 tax return for the trust and there is your trust right there
8 Gary Magness Irrevocable Trust that's the same trust we've
9 been talking about today, isn't it?

10 A. Yes.

11 Q. And this fiduciary here that's the same Mango Five Family
12 that we've been talking about here today. Right?

13 A. Yes.

14 Q. Okay. And let's go to the next page and go down to the
15 signature. Go back one page, please. Blow that up. Similar
16 to what we just saw, you signed as fiduciary under penalty of
17 perjury this tax return, didn't you?

18 A. Yes.

19 Q. Okay. So now let's look at the next page and now we see,
20 if we can enlarge it, the same form, form 8275 disclosure
21 statement just like what we looked at a minute ago. The same
22 form, isn't it, sir?

23 A. Yes.

24 Q. What's different is taxpayer up here isn't you. Now it's
25 this GMIT trust one of the entities that held the CDs.

1 A. Right.

2 Q. And you're having to explain to the IRS about cash
3 received from Stanford International Bank. That's part of
4 what you're doing here. Right?

5 A. Right.

6 Q. And now the number's different because this is the other
7 part of the 25 million. This is about 15 and a half million.
8 Right, sir?

9 A. Yes.

10 (Begin part 13, ljr)

11 Q. The 25 million is composed of this figure we're looking
12 at here, the figure we just looked at on the other tax return,
13 plus that cash you tossed in.

14 A. Right.

15 Q. That totals to 25 million to the penny. Right?

16 A. Right.

17 Q. Okay. Now let's look and see what you told the IRS a
18 second time on the next page.

19 MR. SADLER: And let's blow up all of that.

20 Q. (BY MR. SADLER) Taxpayer, this time it's not you
21 personally, it's you as fiduciary for the Trust. That's your
22 role here. Right?

23 A. Right.

24 Q. And let's look at it. You invested through the Trust in
25 the Stanford CDs, '05 and '06. True statement. Right?

1 A. Right.

2 Q. And for the Trust, the face amount was 55 million. Also
3 true statement. Right?

4 A. I think so.

5 Q. Yeah. But here's this next sentence. In October 2008,
6 "The taxpayer--meaning the Trust, your Trust--received funds
7 from Stanford as a loan secured by the CDs." Also true.
8 Right?

9 A. Correct.

10 Q. Okay. But now here comes this same sentence, and you'd
11 agree with me it's word for word what we just looked at, "Due
12 to the investigation of Stanford which was active in 2008, the
13 taxpayer was concerned that his CD principal was in
14 jeopardy." That's what you told the IRS on this form.

15 A. Yes.

16 Q. So on two different tax returns, you made the same
17 statement to the IRS. Right?

18 A. Yes.

19 Q. Using the same language, saying the same thing in October
20 2008, you thought your CD principal was in jeopardy. That's
21 what you told the IRS.

22 A. Correct.

23 Q. And you wanted the IRS to accept this and they did accept
24 it, didn't they?

25 A. I think so.

1 MR. SADLER: If we could, Mr. Jarrett, could we just
2 highlight this taxpayer jeopardy sentence?

3 Q. (BY MR. SADLER) And, Mr. Magness, you'd agree with me,
4 this statement, it's true and it makes sense because when you
5 went to get your redemption, the excuse that they gave you for
6 not giving you a redemption didn't line up with what they'd
7 been telling the public or telling you previously. Isn't that
8 right?

9 A. No, it was basically the same.

10 Q. It was basically the same. Are you telling us that
11 sometime previously, you had asked for a redemption previous
12 to October '08, they told you no and had told you no because
13 we need to keep your CD on our balance sheet?

14 A. No. It was their discretion what to do if you asked for
15 early redemption.

16 Q. Those words that you just spoke, it was their discretion?

17 A. Yes.

18 Q. So you'd agree with me, first, that's not what you told
19 the IRS. Right?

20 A. This is -- the IRS, in filing your taxes, I understand is
21 how you treat it yourself. Sometimes it's not exactly as it
22 went down. It's how you're treating it. And we did not get
23 our interest payment because we really didn't get all of our
24 principal back.

25 Q. Yeah, and you certainly didn't tell the IRS that you took

1 the loan to pay down margin debt. You don't say that anywhere
2 here, do you?

3 A. I don't think it's a problem of theirs.

4 Q. You don't say that on your tax return, do you?

5 A. I don't -- no.

6 Q. On either one of these?

7 A. No.

8 Q. Because telling the IRS, I took the loans to pay down
9 margin debt, that wouldn't really help you win your tax case
10 with the IRS, would it?

11 A. It just might.

12 Q. It just might. If you took money out of the bank just to
13 pay off some other bank, wouldn't that be treated as just
14 income that you need to pay taxes on?

15 A. It's how you treat it, and you have to be somewhat
16 correct and honest about it.

17 Q. Right. Correct and honest.

18 A. Exactly.

19 Q. Yeah. And the correct and honest thing is you took the
20 loans because you thought if you didn't, you'd lose your
21 chance to get the cash out. That's why you took the loans.

22 A. No, sir.

23 Q. You took the loans because you knew if you didn't -- if
24 you didn't move that money from an unsafe bank to a bunch of
25 safe banks, it wasn't going to be there very long. That's why

1 you took the loans.

2 A. No, sir.

3 Q. We looked -- we have looked at several of your meeting
4 minutes from your Mango Five group, and I want to be sure we
5 haven't left one out. But can you think of any, any written
6 meeting minutes from any of these Mango Five meetings you guys
7 had, wherever at the Wynn Casino or anywhere else, where you
8 guys wrote down, wrote down, we took these loans to pay off
9 margin debt?

10 Is that anywhere in any of your meeting minutes in any
11 time period?

12 A. I do not know.

13 Q. If that were true, if you had really done that, if you
14 had really taken that cash out of the bank to pay down margin
15 debt, wouldn't that be something we would find reflected in
16 the minutes of the meetings of the investment committee?
17 Wouldn't we find that in there?

18 A. Sometimes you don't see everything on the minutes.

19 Q. Yeah. And if the plan really was that these loans were
20 really short term, that you only needed the cash for, as Mr.
21 Espy said, a week, or Ms. Dokken wrote, just a short term, and
22 you were going to pay them back with cash, wouldn't we have
23 seen that whole plan discussed somewhere in the meeting
24 minutes of the committee if that, in fact, was the real plan?
25 Wouldn't we see that?

1 A. I -- I think that all we have is the signed documents.

2 Q. Right. Now, this -- this issue of margin calls --

3 THE COURT: If we're changing subjects --

4 MR. SADLER: Yes, sir.

5 THE COURT: -- we're due for a break somewhere.

6 MR. SADLER: Now is perfect. Now is perfect, sir.

7 THE COURT: Okay. Let's take our afternoon break
8 now, and we'll see you-all back in 20 minutes.

9 (Whereupon, the jury left the courtroom.)

10 THE COURT: Be seated.

11 I just wanted to recap the discussion that we had up at
12 the sidebar, and the issue was use of a deposition of one
13 witness to impeach the live testimony of a different witness.

14 MR. SADLER: Yes, sir.

15 THE COURT: And my recollection, Mr. Sadler, is you
16 were arguing that Rule 32(a)(2) provides for that, and that
17 has the contradict or impeach the testimony language?

18 MR. SADLER: Yes, Your Honor, that's the language.

19 THE COURT: And I think if you look at that, and you
20 might want to do that during the break, it specifically limits
21 it to the testimony of the deponent.

22 MR. SADLER: I understand, Your Honor, and I have a
23 different reading of the rule. But as a practical matter,
24 we're past this, and so it's -- it's not going to come up
25 again.

1 THE COURT: Okay. That's the only one?

2 MR. SADLER: Yes, sir.

3 THE COURT: Well, then never mind.

4 MR. SADLER: Yes, sir.

5 THE COURT: Anything else we need to take up?

6 MR. SADLER: No, sir.

7 MR. PETRIE: No, sir.

8 THE COURT: Okay. We'll see you back in 20 minutes.

9 (Brief recess.)

10 THE COURT: All set?

11 MR. SADLER: Yes, sir.

12 MR. PETRIE: Yes, sir.

13 THE COURT: How much more you think?

14 MR. SADLER: Oh, not very much at all, Your Honor.

15 Maybe 15 or 20 minutes.

16 THE COURT: Okay.

17 (Whereupon, the jury entered the courtroom.)

18 THE COURT: Be seated.

19 Receiver may proceed.

20 MR. SADLER: Thank you, Your Honor.

21 Q. (BY MR. SADLER) Mr. Magness, there was a comment you
22 made towards the end of when Mr. Petrie was asking you
23 questions. It went by really fast and I needed to come back
24 to it.

25 Remember you were telling him, I think before the lunch

1 break, that it wasn't until January that you started to have
2 suspicions about Stanford, that general subject. That's what
3 I'm talking about. Do you remember talking about that?

4 A. It could be the end of January area.

5 Q. Okay. And then you mentioned something about sending a
6 letter, and I think I know what you're talking about, but
7 that's what I want to focus on now.

8 In the middle of January, about January 13, Mr. Espy
9 worked with Mr. Knudson to draft a letter to send to the bank,
10 and the letter was a series of questions. Do you know what
11 I'm talking about?

12 A. Yes.

13 Q. Okay. Is that the letter you were thinking about?

14 A. I believe so.

15 Q. Okay. We have that. I know you guys didn't put it up,
16 but I'm going to put it up.

17 MR. SADLER: Plaintiff's 98. First let's just kind
18 of see what we're talking about. Let's grab the top down to
19 Mr. Rodriguez. Right there's fine for now.

20 Q. (BY MR. SADLER) And so this is a letter, dated January
21 13, 2009, from Mango Five to Mr. Rodriguez. And then if we go
22 to the bottom, we can see who signed it. I believe it's
23 signed by Mr. Knudson. But can you confirm that?

24 A. Yes.

25 Q. Okay. Signed by Mr. Knudson. And then let's just get

1 the text of the three paragraphs before we get to the
2 questions, just to understand what we're talking about.

3 So Mr. Knudson is writing to Mr. Rodriguez. We're now
4 already into January. Right? January time frame.

5 A. Yes.

6 Q. Okay. And he identifies who he is, and says it's his job
7 to evaluate the assets of the Trust from time to time. And
8 that's at your direction. I guess that's basically true.
9 Right?

10 A. Yes.

11 Q. Okay. And then he identifies that they own CDs, and
12 that's true. And then he says it's imperative that they have
13 as much knowledge as to the viability, value, and safety. You
14 see that?

15 A. Yes.

16 Q. And so this list of questions --

17 MR. SADLER: and let's go ahead and put up these
18 list of questions.

19 Q. (BY MR. SADLER) These are questions that Tom Espy and
20 Mr. Knudson came up and then they were put in this letter and
21 then this letter was sent to the bank president. Right?

22 A. Yes.

23 Q. Okay. And we can probably spend a lot of time that we
24 don't need to talking about questions 1 through 5. I just
25 want to focus your attention on question 6.

1 This is Mr. Knudson, after he's worked with Mr. Espy to
2 come up with this question, Given the product, sector,
3 currency and alternative investment strategies, how is it that
4 SIBL is only down one percent through November. Do you see
5 that?

6 A. Yes.

7 Q. And to be clear, SIBL, that's Stanford International
8 Bank, Ltd. Right?

9 A. Right.

10 Q. Now, we talked about this letter in your deposition, so
11 I'm sure you remember it. These questions, these are all
12 questions that you guys could have put to the bank the week
13 before, two months before, six months before, I guess except
14 for Madoff. Right?

15 A. I think that they mirror a letter from somebody to Madoff
16 also, I think where they got some of this.

17 Q. Yeah. And the idea was you were going to send these
18 questions on January the 13th, and then there was a phone call
19 set up for January the 27th to get the answers, and you guys
20 ended up having that phone call. Right?

21 A. Yes.

22 Q. Yeah. But the truth of the matter is, before you ever
23 got to the phone call to get the answers to the questions, as
24 you've testified in your deposition, you already pretty much
25 made up your mind by that time you were going to try to get

1 everything else out of the bank that you could. Right?

2 A. I think we probably were thinking about it. I don't know
3 what exactly was happening at that exact second. I do know
4 that we were going forward real soon after that.

5 Q. Okay. And let me be clear with my question. If you sent
6 the letter on the 13th, expecting to get the answers to your
7 questions in a phone call two weeks later on January the 27th,
8 isn't it true that before the phone call ever happened, you
9 pretty much made up your mind that you weren't going to wait
10 for the answers; you were going to try to get anything else
11 you could in the way of cash out of the bank by redemption?

12 A. I don't really recall really.

13 Q. You don't recall.

14 A. I know that Steve asked for his CDs to be redeemed right
15 after this.

16 Q. All right. Well, let me --

17 A. But I did also right after he got his redeemed.

18 Q. Okay. So to put it in context, let me show
19 you -- actually I can't show it to you because it's not
20 admitted, but let me have you look at it.

21 Look at Plaintiff's Exhibit 100 in your book, if you
22 would, please, sir. And tell me when you have it.

23 A. Okay. I have it.

24 Q. All right. And can you identify for me that Plaintiff's
25 Exhibit 100 is a series of redemption letters for the CDs and

1 they are draft letters, unsigned, dated January 15, 2009?

2 A. Yes.

3 Q. And these letters were prepared at your direction on or
4 about January 15, 2009?

5 MR. PETRIE: Excuse me, Your Honor. This is a
6 document not in evidence, and he's already just admitting
7 everything about it.

8 MR. SADLER: I'm laying the foundation to offer it.
9 I have to establish that he's familiar with it.

10 THE COURT: Overruled.

11 Q. (BY MR. SADLER) These letters, these draft letters dated
12 January the 15th, you directed these letters to be drafted on
13 or about that date, did you not?

14 A. I do not know that I did.

15 Q. Okay.

16 MR. SADLER: Your Honor --

17 THE WITNESS: I did not sign it.

18 Q. (BY MR. SADLER) Understood.

19 MR. SADLER: May I approach with the deposition?

20 THE COURT: Yes.

21 MR. SADLER: Thank you.

22 Q. (BY MR. SADLER) I think this will -- if you could -- Mr.
23 Magness, you recall having your deposition taken --

24 A. Yes.

25 Q. -- last February under oath?

1 A. Right.

2 Q. Okay. And I'm showing you on page 272 at line 14, and
3 I'm just going to read the question. If you'll read along
4 with me. "Let me show you Plaintiff's Exhibit 100. These are
5 draft letters from you, dated January 15, 2009, asking for the
6 immediate liquidation of all the CDs."

7 And what was your answer?

8 A. "Yes."

9 Q. And then my next question was, "Did you direct these
10 letters to be drafted?"

11 And what was your answer?

12 A. I said yes.

13 Q. And the next question was, "And did you direct it on or
14 about January the 15th?"

15 And what was your answer?

16 A. "That's what it says."

17 MR. SADLER: I offer Plaintiff's 100.

18 MR. PETRIE: No objection.

19 THE COURT: It's admitted.

20 MR. SADLER: So if we could just put it up.

21 Q. (BY MR. SADLER) We just looked at a letter, signed
22 letter, that went from Mr. Knudson to the bank, which was the
23 letter you mention in discussions with Mr. Petrie that you
24 guys were going to ask some questions that you wanted answers
25 for from the bank.

1 But here we see that, before the phone call where you
2 were supposed to get the answers and just two days after the
3 letter, you've already started the process of preparing the
4 paperwork to try to get the rest of the money out of the bank.
5 Isn't that true?

6 A. Yes.

7 Q. Okay. And isn't it true that you did that because, at
8 least by your own admission by this time, you'd made up your
9 mind this bank was a fraud and you wanted to get out.

10 A. Not necessarily.

11 Q. Not necessarily. Isn't it true, sir, you testified in
12 your deposition that by this time you were by your own
13 admission fairly suspicious of what was going on at the bank?

14 A. Yes.

15 Q. Okay. And what you were fairly suspicious of is not that
16 they were just bad business people, but they were crooks and
17 running a fraud.

18 A. I'm not sure the fraud part, but, you know, at that point
19 there's a lot of things going on, but I don't know because I
20 can't remember exactly when the TV was all lit up with people
21 trying to get their monies out of Stanford. I don't know when
22 that exactly happened. But they were still in business clear
23 up till the 17th, 18th of February.

24 Q. True enough. But in your letter --

25 MR. SADLER: Let's go back to the exhibit we just

1 looked at, Plaintiff's Exhibit 98.

2 Q. (BY MR. SADLER) And I say your letter. From Mr. Knudson
3 but on your behalf.

4 A. Yes.

5 Q. You weren't waiting to get answers to these questions
6 before you tried to do whatever you could to get as much money
7 out that was left on your behalf. You weren't waiting for the
8 answers to the questions, were you?

9 A. I don't know.

10 MR. SADLER: Your Honor, I'll pass the witness.

11 MR. PETRIE: Thank you, Your Honor.

12 REDIRECT EXAMINATION

13 By Mr. Petrie:

14 Q. Mr. Magness, I'm going to bounce around a bit because I'm
15 going to be covering topics you just finished discussing with
16 Mr. Sadler.

17 I'd like to start by taking you back to the earlier part
18 of Mr. Sadler's questioning of you, and during those questions
19 he showed you some of the marketing materials from the bank
20 that are marked as Plaintiff's Exhibit 474. Do you remember
21 looking at that color brochure?

22 A. Yes.

23 Q. Just waiting for it to pop up on the screen.

24 A. Okay.

25 Q. And can you tell me whether these were the types of

1 materials that you looked at quarterly from the bank?

2 A. I do not know.

3 Q. Did other people that worked for you look at these types
4 of materials quarterly from the bank to your knowledge?

5 A. It's quite possible.

6 Q. Is the information contained in here the type of
7 information that was being provided fairly regularly to
8 you-all as depositors in the CD program?

9 A. Yes.

10 Q. Was it your understanding that this information was
11 somehow being specially prepared for GMIT, GMAG, and Magness
12 Securities?

13 A. As opposed to everybody?

14 Q. Yes, sir. Exactly.

15 A. No, I did not know if it was made just for us.

16 Q. You also had a chance -- I'm going to come back to this
17 document in a minute, but you also looked at a brochure that
18 had pictures of, for example, Laura Pendergest-Holt. She was
19 specifically pointed out in that brochure. It was kind of
20 green brown, a little tough to read. Do you remember that?

21 A. Yes.

22 MR. PETRIE: And let's pull up Exhibit 492 and look
23 at that.

24 Q. (BY MR. PETRIE) And you walked through a lot of the
25 pages of this with Mr. Sadler on his direct examination, in

1 addition to the picture of Ms. Pendergest-Holt. Do you
2 remember doing that?

3 A. Right.

4 Q. Now, when you go to other financial institutions like the
5 Merrill Lynches, the HSBCs, the U.S. Banks, do they also have
6 marketing materials that they provide to you?

7 A. Yes.

8 Q. And how -- in terms of the level of information that's
9 provided in the marketing materials, how did the Stanford
10 marketing materials compare? Were they more information, less
11 information, or about the same type level of information?

12 A. Very similar.

13 Q. By the way, did you receive these marketing materials
14 from Stanford, the ones Mr. Sadler went through?

15 A. Not personally.

16 Q. Did you ever see these before you sat down on the witness
17 stand?

18 A. I don't remember seeing these, but I usually like
19 subliminally read stuff like this.

20 Q. I know it's getting late in the day and you're probably
21 anxious to have me stop asking questions, but if you will
22 please wait for me to finish.

23 A. Sorry.

24 Q. That way if we are not talking at the same time, we won't
25 make the job unduly hard for the court reporter. Okay?

1 A. Okay.

2 Q. Thank you.

3 Now, in the marketing materials that you've seen, have
4 you also seen marketing materials for the hedge fund
5 investments that you made and that we saw in those minutes of
6 the investment committee meetings?

7 A. Yes.

8 Q. And in those types of materials, do they provide detailed
9 information about the types of investments in which they're
10 involved?

11 A. Sometimes not.

12 Q. Now, you talked some with Mr. Sadler about the -- at some
13 length about the March 6th, 2008 investment committee meeting.
14 That's the one that discusses the telephone call with Juan
15 Rodriguez-Tolentino. Do you remember that?

16 A. Yes.

17 Q. Let's pull up that document and look at Exhibit 92. And
18 we'll pull it up on the screen, too, if that's faster for you.

19 A. Okay.

20 Q. And let's skip the agenda page and go right to the
21 paragraph about -- on the third page of the document that
22 talks about Mr. Rodriguez-Tolentino.

23 MR. PETRIE: I'm sorry, I misspoke. If we could
24 look, please, not at December 5, Exhibit 92, but instead look
25 at Exhibit 62. Forgive me. And, again, the top of the third

1 page, please.

2 Q. (BY MR. PETRIE) This is the information you were
3 discussing with Mr. Sadler in terms of this conference call
4 where Mr. Juan Rodriguez-Tolentino participated. Right?

5 A. Yes.

6 Q. And he went through with you some of the various things
7 that were told to you during the course of that conference
8 call. Do you recall that?

9 A. Right.

10 Q. Now, when the information was provided that the bank had
11 some of the characteristics of a hedge fund, do you recall
12 discussing that with Mr. Sadler?

13 A. Yes.

14 Q. When Mr. Rodriguez-Tolentino told you that in March of
15 2008, was that a surprise?

16 A. No.

17 Q. And why not?

18 A. It's typical.

19 Q. What do you mean?

20 A. He told us that -- what we're talking about, explain
21 yourself.

22 Q. My -- my question?

23 A. Yeah.

24 Q. My question is, when it says in -- let's see if we can
25 look in the second paragraph of this paragraph 5, and towards

1 the bottom it says, while admitting that the investment has
2 some characteristics of a hedge fund. Do you see that?

3 A. Yes.

4 Q. And then you also see that a little further up from that
5 it says, Mr. Rodriguez was asked how this differs from a hedge
6 fund, and he responded that it is different because the bank
7 has regulatory oversight. Do you see that?

8 A. Yes.

9 Q. Now, when he told you that, first of all, was it news to
10 you that the bank had regulatory oversight?

11 A. No.

12 Q. And do you remember discussing with Mr. Sadler the
13 distinction between regulatory oversight by the FDIC or SEC
14 versus a regulatory agency in the island or governings active
15 in the island of Antigua?

16 A. Correct.

17 Q. And was that something you had known from the beginning
18 of your investment, that the regulatory structure was
19 something local and not governed by a U.S. regulator?

20 A. Yes. It was, you know, like an English Commonwealth
21 country, so it was more associated with British law.

22 Q. And when he told you that the bank had regulatory
23 oversight in March of 2008, was that a new piece of
24 information for you?

25 A. No.

1 Q. And when he told you that -- when asked how it differs
2 from a hedge fund, and he told the group that it is different
3 from a hedge fund because the bank has regulatory oversight
4 but otherwise had characteristics of a hedge fund, was that
5 news to you?

6 A. No.

7 Q. Now, if we take Mr. Sadler's premise that there are items
8 in here that were not publicly available -- and he asked you
9 about that. Do you remember that?

10 A. Yes.

11 Q. When you had this information in March of 2008, did you
12 do anything with it?

13 A. No.

14 Q. Did you share it with anyone outside of the group of
15 people participating in this phone call?

16 A. No.

17 Q. Did you make any decisions with respect to the CDs based
18 on any one of these items of information?

19 A. No.

20 Q. Did this information provided in March of 2008 play any
21 role in the decisions you made in October of 2008 with respect
22 to the four loans that you discussed with Mr. Sadler?

23 A. No.

24 Q. Now, let's go back to 474, which is the other
25 marketing -- the quarterly, I'm going to call it a bulletin.

1 Let me call it a quarterly update since that's the title on
2 it. And it's on the screen, but -- if that's easier for you
3 to look at it that way.

4 A. Yes.

5 Q. However's easiest for you.

6 A. It's not in the book, so go ahead.

7 Q. Then let's go with the screen. If you could look,
8 please, at page 4 that Mr. Sadler took you to.

9 A. Okay.

10 Q. And you remember he skipped over all the other stuff
11 saying essentially that was just history about what was -- a
12 report on what was going on in the market. Do you remember
13 that?

14 A. Yes.

15 Q. And then you see at the very top of the page--we don't
16 need to blow it up because it's very small print and fairly
17 detailed--there is portfolio adjustments that's talking about
18 things that are going on with Stanford International Bank.
19 Right?

20 A. Right.

21 Q. And then he talked to you about this product allocation
22 pie chart, which is the one in the upper left-hand corner of
23 the four. Correct?

24 A. Right.

25 Q. And had you seen information like this talking about

1 these types of allocations previously?

2 A. That's what he took care of during the phone call.

3 Q. And do you see, if we can quickly check the date on this,
4 that this information, this update document, do you see the
5 date on the first page covers what is essentially the third
6 quarter -- excuse me, the second quarter of 2008, from April
7 1, '08 through June 30, '08?

8 A. Correct.

9 Q. Okay. And now let's look at page 4, which is the
10 information Mr. Sadler was discussing with you. But I want to
11 focus on the lower-most left-hand box, which is the SIBL data.
12 And that has the date August 30 of '08. Do you remember
13 looking at that information with Mr. Sadler?

14 A. Yes.

15 Q. Okay. Do you see where this references the investment
16 portfolio--and I'm going to round it--\$8 billion?

17 A. Yes.

18 Q. Do you see that, sir? The last item there?

19 A. Yes.

20 Q. And it shows then year-to-date earnings on that portfolio
21 of--and, again, I'm going to round it--roughly \$16 million.
22 Do you see that?

23 A. Yes.

24 Q. And do you understand that \$16 million is two-tenths of a
25 percent of the value of that portfolio?

1 A. Yes.

2 Q. In your experience, is that a really good return on the
3 portfolio for the year-to-date that's being discussed here?

4 A. It doesn't look very large. But as I look at it now, I
5 think the same thing, it's kind of small.

6 Q. Okay. And then you also discussed with Mr. Sadler in
7 this same portion of the document the index returns. Remember
8 he was discussing with you the Dow Jones and the S&P?

9 A. Right.

10 Q. Let's go back and look at those. Let's take the S&P just
11 because it's at the bottom of the stack and easy to spot.
12 That shows a return of negative 12.8279 percent, and that
13 shows that being as of June 30 of '08. Do you see that?

14 A. Right.

15 Q. Is it your understanding -- what's the time period that
16 is measuring the drop? In other words, is it --

17 A. That is from the first of the year.

18 Q. Okay. And is that in your experience in the marketplace
19 a major drop in the S&P index to have almost 13 percent drop
20 over the first six months of the year?

21 A. That can happen in one day to two days.

22 Q. Well, irrespective of the speed with which it happens, is
23 that a significant drop in your experience?

24 A. No.

25 Q. Now I'd like to turn to some of Mr. Sadler's questions

1 this afternoon as compared to this morning if that helps you
2 place them in the continuum.

3 He went through with you the two -- he talked to you
4 about two loans, one loan to buy the CDs and then another loan
5 from Stanford International Bank on the CDs. Do you remember
6 that fairly lengthy conversation?

7 A. Yes.

8 Q. And he asked you a question to the effect of having the
9 two loans in the manner you describe for him as, to use his
10 phrase, not making much sense. Do you remember that?

11 A. Yes.

12 Q. And you agreed with him that it didn't make much sense.
13 Right?

14 A. Yes.

15 Q. If it didn't make much sense, why did you do it?

16 A. I needed the money immediately.

17 Q. And when you say immediately, how fast?

18 A. The next day.

19 Q. The very next day?

20 A. Yes.

21 Q. Now, he asked you some questions also then about the
22 statements that were being made in borrowing the money, about
23 how the plan was to pay the money back in fairly short order
24 by the sale of stock. Do you remember that?

25 A. Yes.

1 Q. Was that statement true?

2 A. I don't recall that ever happening.

3 Q. Well, it may not have happened. Was it the statement was
4 the plan at the time to try and pay back that loan in fairly
5 short order from the sale of stock?

6 A. It wasn't -- it wasn't what I -- I thought.

7 Q. What did you think you were going to do to pay that back?

8 A. I would have had -- you know, it was going to take a
9 little longer than a couple of days, I could tell that, or a
10 week or a month.

11 Q. And why would it take that period of time?

12 A. Because if I'm waiting for my stocks to appreciate back
13 where they were before, it's not going to happen overnight.

14 Q. Now, you also discussed with him some the forms of the
15 promissory notes. Do you remember that, the notes that you
16 signed for the four loans from SIB?

17 A. Yes.

18 Q. And let's look at one of those. Let's pull up Exhibit
19 84. And let's look at the third page of exhibit -- excuse me,
20 second page of Exhibit 84. That was the promissory note that
21 you looked at with or one of the promissory notes you looked
22 at with Mr. Sadler. Correct?

23 A. Yes.

24 Q. And do you remember discussing with him the fact that
25 this is a standard form from the bank into which the bank has

1 put in information that is a few specific parts for you,
2 meaning the date, the dollar amount, checking the box for how
3 the money's being given out and what the collateral is.

4 A. Right.

5 Q. Otherwise, this is all standard. Right?

6 A. Correct.

7 Q. Now, he had talked to you about the phrase there about
8 how it was a demand note. Remember that?

9 A. Correct.

10 Q. And he pointed out the language that says, it is payable
11 back to the bank on your, meaning the bank's, order or demand.
12 Right?

13 A. Correct.

14 Q. Now, at any point in time between -- and let's say from
15 when you took out the loans in October to the day before
16 Madoff was revealed, say mid December of the same year of '08,
17 did Stanford International Bank ever come back to you and
18 say -- make a demand for repayment for all or part of any of
19 those promissory notes?

20 A. No.

21 Q. Now, Mr. Sadler also asked you some questions about your
22 understanding of this 80 percent borrowing program that was in
23 place at Stanford. Do you recall that?

24 A. Yes.

25 Q. First of all, did you have any understanding as to

1 whether you had a right to borrow 80 percent of the CDs by
2 some agreement or otherwise with Stanford International Bank?

3 A. It was at their discretion.

4 Q. And did you understand that in determining what that 80
5 percent would be, what the dollar amount of it would be, that
6 you would include both your principal and any interest that it
7 accrued to whatever date you were seeking a loan?

8 A. Yes.

9 Q. Now, Mr. Sadler asked you a question. And I apologize.
10 I'm going to paraphrase it because I'm not a very good
11 stenographer, but something to the effect of you had figured
12 out a way to get more than 80 percent out of Stanford
13 International Bank. Do you recall that question -- a question
14 to that effect?

15 A. Yes.

16 Q. Was this series of four loans something where at some
17 point before October 10th, you-all planned to take out the
18 four loans as you ended up doing?

19 A. No.

20 Q. How did that come about that you ended up having one
21 loan, a loan repaid, and then three more loans after?

22 A. The market was crashing daily. Margin calls, we needed
23 to pay margin calls immediately.

24 Q. And did you have any forewarning of some sort that these
25 market calls -- margin calls, excuse me, would be coming?

1 A. Had a little warning, but, I mean, not that you expected
2 it to be as bad.

3 Q. Now, you were also asked very recently, towards the end
4 of Mr. Sadler's questioning, about whether any of the minutes
5 of the investment committee of Mango Five had references to
6 margin loans. Do you remember discussing that with him?

7 A. Yes. All our loans are margin loans.

8 Q. Okay. So when you and I went through and talked about
9 all the various debts that were outstanding and/or being
10 repaid, are there any of those that were not margin loans?

11 A. No.

12 Q. Is there a reason why you don't use the word "margin" in
13 the Mango Five minutes?

14 A. No, because it's all the same thing.

15 Q. Let's look at exhibit -- Plaintiff's Exhibit 227 that you
16 discussed with counsel for the Receiver. Do you still have
17 that in the binder?

18 A. It doesn't seem to be here.

19 Q. Well, you can look on the screen if that helps. That is
20 the October 13 email. Do you remember discussing that with
21 Mr. Sadler?

22 A. Yes.

23 Q. Okay. Now, if we look at the top email --

24 MR. PETRIE: We can start with that one, Austin.
25 That's fine.

1 Q. (BY MR. PETRIE) Mr. Espy. We've talked a little bit
2 about how he's the financial advisor you worked with at
3 Stanford Group Company, but we didn't talk about where he
4 worked, what city he worked in. What city did he work in?

5 A. He worked in Denver.

6 Q. Okay. And so working in Denver, when he sends out this
7 email on October 13th at 14:35, that means it's 2:35 in the
8 afternoon. Right?

9 A. Right.

10 Q. And that would be Mountain Time. Correct?

11 A. Correct.

12 Q. And what time would that be Eastern Standard where the
13 markets are open?

14 A. It would be 16.

15 Q. And what does that mean in non-military time?

16 A. Okay. 4:00.

17 Q. 4:30?

18 A. Yes.

19 Q. And are the markets still open at 4:30?

20 A. No.

21 Q. They'd been open all day, though, prior to when they
22 close for the day. Correct?

23 A. Yes.

24 Q. And so when Mr. Sadler asked you about how there was not
25 any time for things to change because of the intervening

1 weekend, that's not accurate, is it?

2 A. That's right.

3 Q. And do you remember what was happening in the market on
4 Monday, October 13th?

5 A. No.

6 Q. Well, if you were asking for more money on the CDs, do
7 you remember if you were still under any pressure from margin
8 calls?

9 A. It was pressure all the time.

10 Q. All the time meaning over what span?

11 A. For two months.

12 Q. You were asked a question by Mr. Sadler--and, again, I'm
13 going to have to just paraphrase it--to the effect of whether
14 spreading the cash around, one of the reasons to do that would
15 be or a really good reason to do that would be is if you
16 thought you had cash in an unsafe bank. Do you remember that?

17 A. Yes.

18 Q. And you had a fairly adamant answer. You said to him
19 that could be, but that's not what happened here.

20 A. Right.

21 Q. Why did you say that?

22 A. Because it wasn't -- the banks weren't getting paid off
23 because one was bad or one was charging too much. They were
24 getting paid off because of margin call. The reason we paid
25 off all those banks is we had already moved the stock around

1 to where it was all at 50 percent loan-to-value. So every
2 bank -- when it got a margin call, every bank lit up red.

3 Q. Was there a difference -- we talked some about the terms
4 of the margin loans and Ms. Dokken reporting about a \$10
5 amount that would kick in things at HSBC and U.S. Bank.

6 Did you have that same \$10 amount that was one of the
7 terms on which you were able to borrow on margin from Merrill
8 Lynch?

9 A. Merrill Lynch was a little better.

10 Q. And when you say a little --

11 A. Yeah. Some of them were -- were \$10. It doesn't work.
12 Some were less than \$10. The government will not let you
13 margin under \$3. So it depends on negotiations with your
14 lender how far they'll allow the stock to go down.

15 Q. And did you undertake those types of negotiations with
16 Merrill Lynch as part of this process?

17 A. Yes.

18 Q. Now, you were asked a question by -- and let's pull up
19 the document first.

20 MR. PETRIE: Pull up Exhibit 92, please, if you have
21 that handy.

22 Q. (BY MR. PETRIE) Hopefully, that's -- if you look at the
23 second page of 92, that should be the December 5, '08 minutes
24 of Mango Five investment committee?

25 A. Yes.

1 Q. And you discussed with Mr. Sadler at some length
2 paragraph 4, which starts the bottom part of that page and
3 then carries over a bit to the top of the next. Do you
4 remember discussing that with him?

5 A. Yes.

6 Q. And he talked to you about that there was no discussion
7 in that paragraph 4 -- and he went through the whole paragraph
8 and then looked at the top of the next page and talked to you
9 about how there was no discussion about the reason for some of
10 these borrowings as being for the paydown of margin calls. Do
11 you remember discussing that with him?

12 A. Yes.

13 Q. Because that is not stated here, it doesn't say we
14 borrowed the money to pay down margin calls, does it mean it
15 didn't happen?

16 A. No, it does not mean it didn't happen.

17 Q. How much of this money went to address margin calls at
18 other financial institutions?

19 A. All of it.

20 Q. He also asked you a question about the bank, meaning
21 Stanford Bank -- I'm going to have to paraphrase it very
22 loosely. But his question was essentially asking you about
23 how the loans were paid off not with cash but set off against
24 your CDs. Do you recall a question to that effect?

25 A. Yes.

1 Q. And when the loans were set off against the CDs, was that
2 still cash that you'd put into the bank?

3 A. Yes.

4 Q. And so is there a distinction between having those paid
5 off with cash or having them set off against your CDs?

6 A. The same thing.

7 Q. You also discussed with Mr. Sadler this draft of the
8 minutes for the December 5 meeting.

9 A. Yes.

10 Q. Do you recall that? And you talked to him about those
11 two items that Mr. Sutton had in a draft but that didn't
12 appear in the final. Do you recall that?

13 A. Yes.

14 Q. Was there any discussion at the December 5 meeting about
15 those topics?

16 A. No, there was not.

17 Q. Did the word "receiver" ever get brought up during the
18 course of that?

19 A. Never.

20 Q. And why are you so definite about that?

21 A. Didn't even really know what a receiver was.

22 MR. PETRIE: Let's, if you could, please, pull up
23 one of the tax returns. Let's do 482. And if you could
24 start --

25 Q. (BY MR. PETRIE) Do you have that document yet, sir?

1 A. Yes.

2 Q. If you could start by looking at the second page of 482.
3 You were asked a question by Mr. Sadler as to whether these
4 were attorneys who represented you on tax matters. Do you
5 recall a question to that effect?

6 A. Oh, yes.

7 Q. And do you see that underneath the name of this firm
8 Erhardt, et cetera, up in the top left corner, what it says is
9 that's a firm of CPAs and advisors?

10 A. Yes.

11 Q. And so these were not attorneys; these were your CPAs?

12 A. CPAs.

13 Q. Now, Mr. Sadler also showed you, if you go to page 6 of
14 this document, the signature block for the return. Do you
15 remember discussing that with him?

16 A. Yes.

17 Q. Okay. And in particular he referred you to that
18 little--I shouldn't say little--the two-line script that
19 appears over the sign here thing. Correct?

20 A. Yes.

21 Q. And what that says is, under penalties of perjury I
22 declare that I've examined this return, including accompanying
23 schedules and statements, and to the best of my knowledge and
24 belief it is true, correct, and complete. Do you see that
25 reference?

1 A. Yes.

2 Q. And what was the knowledge and belief that you had that
3 led you to sign this return as being true, correct, and
4 complete sometime in the fall of 2009?

5 A. It was put together by EKS&H, our accountants.

6 Q. And any other information that you had that led you to
7 believe that this was true, correct, and complete at the time
8 you signed it?

9 A. It was based on information we gave them to compile our
10 taxes.

11 Q. Okay. Did you give the Erhardt Keefe firm, EKS&H,
12 information about an investigation that was taking place in
13 2008?

14 A. I did not.

15 Q. Did you have any knowledge at any point in time in 2009
16 of an investigation of Stanford International Bank that took
17 place in 2008?

18 A. No.

19 MR. PETRIE: Thank you, Your Honor. Those are all
20 the questions I have.

21 THE COURT: Recross?

22 MR. SADLER: No further questions, Your Honor.

23 THE COURT: Thank you, sir. You may step down.

24 MR. PETRIE: Our next witness, Your Honor, is Tonya
25 Dokken, who is a deposition.

1 THE COURT: All right.

2 MR. PETRIE: I think I'm going to need to move the
3 microphone from my desk closer to my speakers so everyone can
4 hear.

5 THE COURT: Help yourself.

6 MR. PETRIE: Thank you.

7 May we just start when ready, Your Honor?

8 THE COURT: Please.

9 MR. PETRIE: Thank you.

10 TONYA DOKKEN, BY VIDEO DEPOSITION,

11 Q. Good morning, Ms. Dokken. Can you please state your name
12 for the record?

13 A. Tonya Dokken.

14 Q. I represent Ralph Janvey, the Plaintiff in this case.
15 He's the Receiver for the Stanford International Bank and
16 other related entities and persons. Do you understand that?

17 A. Yes, I do.

18 Q. Okay. And you understand who Mr. Janvey is as the
19 Receiver?

20 A. Yes.

21 Q. Okay. And you're here today pursuant to a subpoena that
22 the Receiver issued to you. Correct?

23 A. Yes.

24 Q. We're here on a case related to Gary Magness. Are you
25 familiar with Mr. Magness?

1 A. Yes.

2 Q. How do you know Mr. Magness?

3 A. I first met him while I was working for the CPA firm that
4 handled his father's business affairs. And I worked with he
5 and his brother, and then he hired me to go to work for him
6 personally.

7 Q. About what year was that?

8 A. 1989.

9 Q. Are you a CPA?

10 A. No.

11 Q. Do you have education beyond high school?

12 A. Yes.

13 Q. And what is that?

14 A. I have a business degree from the University of Montana.

15 Q. Do you have any other education beyond your business
16 degree at the University of Montana?

17 A. Various workshops and seminars and that sort of thing.

18 Q. Okay.

19 A. But no higher education than that.

20 Q. Do you have any licenses or certifications?

21 A. No. I have a driver's license.

22 Q. Did you go to work for Mr. Magness in 1989?

23 A. No. I worked at the CPA firm for five years. Then I
24 went to work for him in 1994.

25 Q. And what was your position when you went to work for him

1 in 1994?

2 A. It was vague. He liked working with me at the CPA firm.
3 I was hired there to be an oil and gas specialist. So I
4 didn't go through the whole CPA circuit of sitting at the
5 cubicles and that sort of thing, so I was able to meet with
6 clients right away. There's a lot of oil and gas in and
7 around Denver at that time, still is, and so they had some
8 holdings. And that's how I met him.

9 Then I started doing his work personally. I did all of
10 his personal accounting for him, went to his house, opened his
11 mail, and he just decided that he wanted to hire me. I was
12 planning on leaving the CPA firm.

13 Q. Okay. Let me just make sure I break that down and
14 understand which -- who some of those pronouns apply to. So
15 you were hired as an oil and gas specialist at the CPA firm?

16 A. Yes.

17 Q. Okay.

18 A. And so when I was planning to leave there, he offered me
19 a job and he just sort of said he wanted to have all of my
20 knowledge and experience and that sort of thing.

21 And I worked from home at first. At that time he was
22 building a casino, so I did a lot of work, accounting work,
23 and pro formas, and that sort of thing associated with the
24 casino and several other businesses that he was involved in.

25 And then not too long after I went to work for him, his

1 father died. And so there was an acrimonious, I don't know,
2 prenup fight with his stepmother, and so he wanted me to take
3 over the Magness operation, which necessitated us getting an
4 office downtown and hiring more people and that sort of thing.

5 Q. Okay. When did his father pass?

6 A. '96.

7 Q. So going back to 1996 and then moving forward, was there
8 a time at which you had a more formal title or designation
9 within the Magness organization?

10 A. Gary called me his secretary for years and years until we
11 finally had a \$10,000 penalty every time he introduced me as
12 his secretary to someone. So somewhere along the line, I
13 became the controller.

14 Q. Well --

15 A. And then sometime later I became the chief financial
16 officer.

17 Q. Do you know approximately when those two things happened,
18 controller and then CFO?

19 A. I would say controller was probably around 2000 maybe.
20 And CFO, probably, I don't know, 2005 or later.

21 Q. You are now retired?

22 A. Yes.

23 Q. And when did that -- when did you take retirement?

24 A. In August of last year.

25 Q. So that's August of 2015?

1 A. Yes.

2 Q. Okay. And was there any particular reason for your
3 decision to retire, to leave the Magness organization?

4 A. Yes.

5 Q. What was that?

6 A. I just had joint replacement surgery and needed more time
7 off than I could take because it's -- the job was really
8 intense, and I had some really severe high blood pressure
9 problems. And I just decided I didn't want to die there.

10 Q. Are you still in touch with Mr. Magness?

11 A. No.

12 Q. I want to focus on the period from 2005 to 2009 now. Do
13 you recall which entity or entities you were employed by at
14 that time?

15 A. I was employed at that time by the Magness Investment
16 Group. They were my official employer. They work -- it was
17 formed as a company to basically hold the employees of all of
18 Gary's businesses so that everybody got the same benefits and
19 that sort of thing.

20 Q. What's the Cherokee Lending Company, LLC?

21 A. Cherokee Lending Company was a vehicle that lent money to
22 various entities, and it also was involved in the building of
23 the casino and the parking garage associated with it. We had
24 bondholders involved in the parking -- involved in the casino.

25 Q. Now, when you say it lent money to various entities, are

1 those Magness entities or other entities outside of the
2 Magness entities?

3 A. It was mostly Magness entities. It was also to other
4 people, friends of Gary's.

5 Q. Anybody besides friends that you can think of just as a
6 category?

7 A. No.

8 Q. What was your understanding, skipping a few bullets,
9 GMAG, LLC, what was your understanding of that entity?

10 A. GMAG, LLC, originally came from stock that was owned by
11 Gary's -- Gary's mother and outside of his father's death in a
12 certain trust that flowed through. His mother passed away
13 before his father did, and so he wanted to keep -- keep the
14 stock that he received from various ways clear in his mind,
15 and so GMAG, LLC, was formed to hold specific stock. It's
16 owned a hundred percent by Gary Magness.

17 Q. The stock was or the entity?

18 A. The entity and the stock, everything. But he didn't want
19 it in his personal name because he already had personal stock
20 before his father passed away. So he wanted to know what that
21 was, then know what he got from other -- in other ways.

22 Q. So did the entity -- once the stock was in the entity's
23 control, was it in the ownership of the entity or in the
24 ownership of Gary Magness?

25 A. Well, he was the sole manager and member of the LLCs.

1 Q. And from your understanding was there a business reason
2 to keep those sources of the stock separate from one another
3 or was that a personal decision?

4 A. It was a personal decision. It was just the way he
5 wanted it. Magness Securities, for example, came from stock
6 owned by his mother, and Kim and Gary each got their
7 individual pieces of that. And so that was another way of
8 keeping track of a different component of everything that he
9 had inherited.

10 Q. You said Magness Securities.

11 A. Further down the list. I'm just using that as an
12 example.

13 Q. Sure. I just want to make sure I understood. We were
14 talking about GMAG, LLC, and I thought you had said that that
15 was stock from his mother. Was that not --

16 A. And father.

17 Q. I see.

18 A. Came -- it came personally to Gary as opposed to Gary
19 through his father's trust.

20 Q. So what is Magness Securities then?

21 A. His mother's stock.

22 Q. Solely his mother's stock?

23 A. Yes.

24 Q. Okay. And GMAG, LLC, is through both of them?

25 A. Yes.

1 Q. Okay. And I don't see it on this list, but are you
2 familiar with something called the Gary Magness Irrevocable
3 Trust?

4 A. Right. It hadn't been distributed to Gary yet, and
5 that's why it's not on this list. It was at this point in
6 time called the Estate of Bob Magness.

7 Q. Does it cover funding margin calls, et cetera? Can you
8 tell us what a margin call is?

9 A. A margin call is when the price of the stock dips below
10 the value of the required -- or the debt. So if you added 50
11 percent release on the stock and it went below \$10, which
12 would allow you to get the 50 percent release, if it went to
13 \$9, then you had to put in more stock or money to cover that
14 to get it back up in the ratios that it needed to be.

15 Q. So help us understand a little bit about what the
16 stock -- the origin of the stock and the debt in this scenario
17 you just described. Why is it that you would have debt that
18 would give rise to the need to do one of these margin calls?

19 A. So he didn't sell the stock until he was absolutely
20 totally forced to. And in order to live and to fund all these
21 entities, he borrowed against it. So he had huge, huge margin
22 loans for much of the time that I worked for him.

23 Q. And what stock are we talking about?

24 A. TCI-related stock. It was all TCI-related Liberty stock.
25 There were a dozen spin-offs, or more than a dozen probably,

1 but it still was in the Liberty family of stock, everything
2 that he owned.

3 Q. And TCI and Liberty are media-related companies?

4 A. Yes.

5 Q. And so I just want to make sure I understand. Rather
6 than selling the stock to have cash to meet just daily needs,
7 Mr. Magness would borrow against the value of that stock?

8 A. Yes.

9 Q. And he would do that on margin?

10 A. Yes.

11 Q. Is that what that's called?

12 A. Yes.

13 Q. Okay.

14 A. Or he would have a line of credit. But it was still the
15 same thing because the line of credit was backed by the
16 collateral of the stock. So he could have straight-out
17 margins or he could have guaranteed borrowing, but in the end
18 it didn't matter if the stock price went down in the
19 line -- the letter of credit that he had. It said that he had
20 to bring it back to, you know, the percentage that it needed
21 to be. So it was -- it was sort of all margin anyway.

22 Q. And what was your understanding of what would happen if
23 Mr. Magness failed to meet one of these margin calls?

24 A. They sold him out.

25 Q. Meaning they sold the stock that was collateral?

1 A. Yeah. Without him having a say in it.

2 Q. As much as they had or was it just enough to get him back
3 to the appropriate level of debt-to-value?

4 A. To get him back to the appropriate level of
5 debt-to-value.

6 Q. Over the time that you're with Mr. Magness, is the
7 occurrence of margin calls a regular thing?

8 A. There were periods of time where they were a regular
9 thing. The tech bust, the market -- all markets went down
10 then, and some banks sold him out. And then he would never
11 use whoever it was again who did that without -- the way it
12 once worked was that if the price was \$10 and that was the
13 floor of what it should be, if it went down to \$9.75 but cured
14 the next day and was back up over 10, they wouldn't consider
15 that to be a margin call because it had self-cured.

16 But as time went on, if it went to \$9.75, it was just a
17 straight-out margin call and there was no self-curing anymore.
18 So 2008 obviously was the worst time, and he was sold out of a
19 huge position of his stock at that point in time.

20 Q. Just thinking back over the time period that you were
21 with Mr. Magness or when you were working for Mr. Magness,
22 what were the different kinds of strategies that he employed
23 to satisfy margin calls?

24 A. Well, he moved whatever money around that he had, if he
25 had any, but he at that point in time was not really a

1 believer in cash, so he didn't hold onto a lot of cash. So it
2 was then the next choice, if there wasn't money, was to put in
3 a higher value of stock, transfer it from one bank to another,
4 one entity to another, so that that would bring the ratio up.
5 Or if he wasn't having a margin call at one particular place,
6 he would transfer a lot of that stock that may have a higher
7 ratio to whichever bank it was that he was having -- where he
8 was having the margin call.

9 Q. And let's just say 2007 and before or before 2007, did he
10 deal with margin calls ever by selling stock himself rather
11 than being sold out, that you can recall?

12 A. No.

13 Q. You said, I think, that he was not a believer -- a big
14 believer in cash at that time. About what time were you
15 referring to?

16 A. Well, really most of the time that I worked there. He --
17 he was adamantly opposed to selling his stock. He wanted to
18 follow John Malone, who was the head of Liberty Media, and his
19 father had hired John Malone, and so he -- they tried to sell
20 out the stock in the estate of Bob, the original trustees, and
21 Gary and his brother sued them to try to undo that and they
22 were successful.

23 And so they had this drag-along, tag-along agreement for
24 a while that they were able to do exactly what John Malone was
25 doing. And when that ended, Gary just decided that he would

1 just follow what it was that Malone was doing. So if Malone
2 was buying -- Malone really never sold either. So Gary was
3 determined to wait until Doctor Malone unleashed the value of
4 the stock.

5 Q. What's your background or what was your background in
6 investing at the time you went to work for Mr. Magness?

7 A. None.

8 Q. And you mentioned, you know, doing some seminars and
9 those kinds of things. Did any of those relate to investing?

10 A. Some, yes.

11 Q. What -- if you could just give us a general sense of what
12 kinds of seminars you might have attended regarding investing?

13 A. We belonged to the -- I'm trying to think of the name of
14 it -- Private Investors of America, or something like that,
15 organization for high net worth individuals, and they had
16 workshops and seminars in New York every year, and San
17 Francisco and Chicago. And so I went to a number of things
18 like that.

19 But I mostly just learned on the job and got, you know,
20 Derivatives for Dummies and that sort of thing and studied.

21 Q. Self-study.

22 A. Yes.

23 Q. Aside from stock investments in Liberty stock and related
24 companies, what was your observation about the kinds of
25 investments that Mr. Magness appeared to prefer, roughly from

1 2000 to 2009?

2 A. Well, they put together this big land assemblage for
3 the -- for the casino and the parking garage and built that.
4 They ended up having to sell that after Gary's brother's,
5 Kim's, death in 2003 because no one on Kim's side wanted to
6 get a gaming license.

7 Gary was interested in other real-estate kind of deals
8 and some oil and gas. We had a big oil and gas drilling
9 program in Texas for a while.

10 He had a cattle operation, a big cattle ranch in Weld
11 County, which he still has. And at one point from his father
12 there were 900 Arabian horses, but his stepmother in the end
13 took those.

14 Q. What about mutual fund investments?

15 A. Well, he was not at all a fan of those sorts of things,
16 but one of his brokers talked him into them, and he ended up
17 losing his shirt in 2008 on the real estate mutual funds that
18 he was in.

19 Q. What was the name of that broker?

20 A. Tom Espy.

21 Q. Do you recall the name of the investment?

22 A. Well, a lot of the investments were through this company
23 called Prairie Capital. I can't -- there was a number of
24 them. And they weren't exactly mutual funds. They were
25 private equity sort of things. And he lost money in all of

1 them and then vowed that he would never do that again.

2 Q. What about just more mainstream mutual funds?

3 A. No.

4 Q. What about fixed income products?

5 A. No.

6 Q. What about hedge funds?

7 A. Well, some of these private equity things were hedge
8 funds.

9 Q. The things related to real estate you described?

10 A. Yeah. There were several of them that were related to
11 real estate, you know. One of them was just real estate in
12 the U.S. Another big one was real estate in Europe. That was
13 bad.

14 Q. Any other hedge funds you recall Mr. Magness getting
15 involved with?

16 A. No, just the ones through Prairie Capital. He kind of
17 invested in them all at the same time.

18 Q. You talked about moving money between accounts to satisfy
19 margin calls, or, sorry, not money, securities between
20 accounts to satisfy margin calls. Would those sometimes
21 involve moving securities from the account of one entity to
22 the account of another entity?

23 A. Yes.

24 Q. And how would that work from a bookkeeping perspective?

25 A. Well, because there were lots of entities, you could only

1 move from like entity to like entity, and that was part of the
2 problem. So if Gary wouldn't have had the entities that he
3 had, if it would have all been in one pool, it would have been
4 easier to allocate. But we could only move GMAG stock to a
5 like GMAG account.

6 So if Gary personally had more stock of one sort or
7 another, that didn't help. He couldn't move from Gary
8 personal to GMAG, or GMAG to Magness Securities or any of the
9 stockholding entities.

10 Q. I see. So if he -- if he had for GMAG, if he had an
11 account at HSBC and he had an account at --

12 A. Merrill Lynch --

13 Q. -- Merrill Lynch --

14 A. -- let's say.

15 Q. -- he could move a GMAG stock from HSBC to Merrill Lynch.
16 Is that right?

17 A. Correct.

18 Q. Were there -- DO you recall instances where he actually
19 moved money from a GMAG HSBC account to just, for example, a
20 Magness Securities HSBC account?

21 A. No, never.

22 Q. Do you recall situations where there were other kinds of
23 intercompany transfers between different legal entities and --
24 and how that was accounted for?

25 A. There could be loans. So GMAG could loan Magness

1 Securities money if it had it. So sometimes there were loans
2 on the books.

3 Q. Would that only occur if there was a movement of cash?

4 A. Yes. We never loaned stock.

5 Q. Okay. If there was a loan of cash, would it be typical
6 to have paperwork documenting the loan aside from just an
7 accounting book entry?

8 A. Sometimes. If we thought it was going to be paid off in
9 the current period, in the period of the monthly financials,
10 then we wouldn't necessarily do paperwork. We would consider
11 it current and we would just pay it off.

12 Q. And if you didn't think it was going to be paid off in
13 the current period, what would you do?

14 A. Well, most of those loans happened through the estate of
15 Bob because that's where the -- the -- you know, the big money
16 was. Gary -- in relationship, Gary didn't have, you know,
17 that much money. So the estate of Bob would loan the entities
18 what they needed, and there would be notes associated with
19 that through the Estate at that time.

20 Q. And then those -- those debts, I assume, would be
21 serviced on a monthly or quarterly or other periodic basis?

22 A. They were -- it was accrued. So accrued interest. And
23 then all of that was settled in the flow-through of the Estate
24 to the Gary Magness Irrevocable Trust.

25 Q. Around 2003 or 2004 or '5, somewhere in that period?

1 A. Yeah.

2 Q. Again, looking at the period of 2007 and prior, did Mr.
3 Magness's margin debt sort of inexorably increase or was -- or
4 did it go up and down from time to time?

5 A. No. It just increased.

6 Q. And I take it the interest rates over time just
7 fluctuated with the interest rates in the market that were
8 available at banks?

9 A. Correct.

10 Q. Okay. So in Plaintiff's Exhibit 118 you explained why
11 the Gary Magness Irrevocable Trust is not listed. Once that
12 came into being, were you the chief financial officer for the
13 Trust as well?

14 A. Oh -- yes, in a sense, but the Trust was -- was run by
15 Gary's trust company, Magness Family Five, Inc., and there
16 were trustees. And so all business was enacted through the
17 board and through the trustees. So I didn't -- I wasn't a
18 trustee nor was I a board member. So I did not have control
19 over that in any sense of the word.

20 Q. Were you responsible for managing the books of the Trust?

21 A. Yes.

22 Q. Okay. Mango Family Five, does that sound right as far as
23 the company?

24 A. Yes.

25 Q. For a period of time -- well, let me ask you this. Are

1 you aware that Mr. Magness was the trustee of the Gary Magness
2 Irrevocable Trust for a period of time?

3 A. Yes.

4 Q. And then he resigned, and then this entity Mango Family
5 Five became the trustee?

6 A. Correct.

7 Q. Do you know why that was?

8 A. Because it was a Nevada trust corporation.

9 Q. And what's the significance of that?

10 A. Trust companies don't pay state income taxes in Nevada.

11 Q. I should ask, which entity was a Nevada trust company?

12 A. MFFI.

13 Q. Mango Family Five.

14 A. Yes.

15 Q. And Mr. Magness, at the time he resigned, was a resident
16 of what state?

17 A. Colorado.

18 Q. So it's your understanding that Mango Family Five became
19 the trustee for tax reasons?

20 A. Yes.

21 Q. Okay.

22 A. And estate planning and some other reasons the lawyers
23 thought it best to move there.

24 Q. Aside from managing its books, what other
25 responsibilities did you have for the Gary Magness Irrevocable

1 Trust?

2 A. Well, we did what we called a net worth analysis where we
3 put all of the stock and all of the entities on several
4 different spreadsheets to show the concentration of the
5 position. So we put all of the stock together from all
6 entities to show how much Liberty Media stock we may own.

7 Then we had all of the individual entities, and it was
8 interactive with the prices of the stock so we could see what
9 the gain/loss was.

10 And then we had all of those entities set up on a
11 sophisticated margin call analysis sheet that put in all of
12 the factors that might trigger margin calls so that we would
13 know where we were at any given time. So that was one of the
14 things.

15 I talked to the attorneys often about the other things
16 that the Trust owned and decisions that might need to be made
17 about the other businesses within the Trust; talked to Gary
18 about stock matters or just, you know, regular business
19 matters often.

20 Q. You were not, though, an employee of the Trust.

21 A. No.

22 Q. And then I take it on some occasions, the time that you
23 spent as an employee of Magness Investment Group, LLC, was
24 billed to the Trust on a cost basis?

25 A. Until -- until we became -- until it became MFFI, and

1 then there was just a set amount that was billed every year.
2 But we still kept track of the hours to see where we were on
3 it.

4 Q. I just want to make sure I understand the shorthand
5 you're using. You said MFF Five?

6 A. MFFI, Mango Five Family, Inc.

7 Q. I see. MFFI.

8 A. Yes.

9 Q. Okay. Got it. So when MFFI got involved and it was done
10 on an annual basis, was that just for you or for a variety of
11 people at Magness Investment Group?

12 A. No. We didn't -- we didn't pay anybody else out of our
13 portion. It was just for ease of -- of I think for the Trust
14 company in Nevada for the way they liked to handle things.

15 Q. And do you know approximately what the arrangement was as
16 far as what MFFI paid to Magness Investment Group for your
17 services?

18 A. It was perhaps \$700,000 or \$800,000, somewhere in that
19 range, a year. It was the main -- it was more than 50 percent
20 of the time -- way more than 50 percent of the time that we
21 spent on anything else, our time managing the -- the trust.

22 Q. When you say our, you're talking about the Magness
23 Investment Group?

24 A. The Magness Investment Group.

25 Q. And the seven- to \$800,000 a year, is that just your time

1 or does it also include the time of your subordinates?

2 A. It includes everybody's time, the rent, the benefits, the
3 parking, the -- everything.

4 Q. And did you have people working for you at Magness
5 Investment Group during the time that Mango or MFFI was
6 operating?

7 A. Yes.

8 Q. About how many people?

9 A. Oh, it varied. Six to eight.

10 Q. Let me hand you Plaintiff's Exhibit 181. You mentioned
11 the net worth spreadsheets, and I just want to see if
12 Plaintiff's Exhibit 181 is an example of what you were
13 describing.

14 A. Yes. But there were a number -- I mean, there were quite
15 a number more than are included in this. But this is the
16 overall net worth, if you will. So it has all the stock, it
17 has all the debt.

18 Q. Now, I understand there are a lot more dates that these
19 were generated for, but are you saying there are different
20 kind of reports than what we're seeing in 181?

21 A. Yes. There was a fair market value. There was a
22 different Schedule C -- or a Schedule B that was all of the
23 stocks put together. So it just had how -- how many shares it
24 was that he had of Liberty Media or LTBYA or whatever. And
25 then there were all the individual banks margin calculations.

1 But they were really not printable because they were just all
2 formulas. They were -- you know, I mean, it was printable at
3 that point in time to show where you were, you know, you were
4 okay or you were getting close or whatever.

5 Q. Okay. Well, let's back up and just tell us what is
6 Plaintiff's Exhibit 181.

7 A. Well, it's what we call the net worth analysis.

8 Q. And it's the net worth of who or what?

9 A. It's the net worth of everything that Gary owned. So
10 GMIT is on here. We never -- we use -- always just referred
11 to it as GMIT, not GDMIT.

12 Q. And GMIT is the Gary Magness Irrevocable Trust --

13 A. Yes.

14 Q. -- we've been discussing?

15 A. Yes.

16 Q. Okay. And Gary Magness is Gary Magness, looking at page
17 one, individually?

18 A. Yes.

19 Q. And GMAG, LLC, is the entity we discussed earlier?

20 A. Correct.

21 Q. And Magness Securities, LLC, is one of the securities we
22 discussed earlier.

23 A. Yes.

24 Q. So we looked earlier --

25 A. So if you look here on the last page of Schedule A, you

1 can see that his net worth was \$636 million, and his debt was
2 \$283 million.

3 Q. You're looking at page 14255.004?

4 A. Correct.

5 Q. And the \$636 million number is the very last line on that
6 page?

7 A. Yes.

8 Q. And the 283 million debt number is just above that?

9 A. Yes. And that's alarming to look at, because the margin
10 debt is so close to 50 percent, and in some cases these stocks
11 were excluded from even being marginable. So this was a
12 really bad time.

13 Q. Now, his assets are worth \$920 million at this time. Am
14 I reading this correctly?

15 A. Yes. But we're looking at taking out -- taking away the
16 margin. So by this time they had changed the availability
17 from 50 percent down to like 30 percent or whatever. So with
18 it being 900 and nearly 300, none of these funds -- at one
19 point someone put mutual funds on here, but they're really
20 funds. They're like hedge funds or whatever, all of these
21 things. Tontine, that was -- that's the one that was
22 particularly bad.

23 Q. Uh-huh.

24 Q. Well, so was Quinlan. Actually they all were.

25 At any rate, those were not -- you couldn't borrow

1 against those. You couldn't borrow against the Stanford
2 International Bank CD. So there's 150 million right off the
3 bat that's out of there. This -- this HSBC derivative, you
4 couldn't borrow against that, either.

5 So a lot of stocks that are in here don't have
6 marginability. So his position as being marginable is much
7 worse than it looks.

8 Q. So let me ask you -- and we'll come back to Stanford.
9 But since you brought it up, why couldn't you borrow against
10 the Stanford International Bank CD?

11 A. Because no banks would accept it as collateral.

12 Q. And what was your understanding of why that was so?

13 A. Because it was an offshore investment.

14 Q. Did there ever come a point in time where you had
15 discussions with Mr. Magness or anybody else within the
16 Magness entities about the possibility of using the Stanford
17 International Bank CD to secure the margin loans?

18 A. Yes. We talked to HSBC.

19 Q. When was that?

20 A. Probably before this period of time.

21 Q. Before September 30th, 2008?

22 A. Yes.

23 Q. Do you think it was months before, years before? Just
24 give me a ball park.

25 A. I think probably a few years before. Probably a year

1 before, anyway.

2 Q. And who -- you said we. Who is we?

3 A. Gary and I.

4 Q. And was that an in-person meeting?

5 A. It could have been. We went to New York quite a bit to
6 visit bankers. And also, after Kim died, we had a big
7 settlement of -- of kim's estate assets, dividing it all up so
8 that they had no more -- no joint ownership of anything. And
9 that was all in New York. So we were there for weeks, it
10 seemed like, waiting because it -- we thought it was done, but
11 it wasn't. Lawyers.

12 Q. And your HSBC contacts were in New York.

13 A. Yes.

14 Q. Okay. Tell me what you recall HSBC saying about the
15 possibility of using the Stanford International Bank
16 investment to secure the HSBC margin debt?

17 A. Well, I mean, they basically said that it was an offshore
18 investment, it was risky. But it wasn't necessarily even
19 that. It was Gary had already borrowed too much money from
20 them. He had all the same kind of stock, so everything in his
21 portfolio was Liberty stock. And before 2005 they had the
22 super voting shares, Kim and Gary, and -- and you couldn't
23 borrow against those. Those weren't marginable because they
24 had to offer them to Doctor Malone first to be able to buy
25 them.

1 So somewhere in 2005 we had the settlement with the
2 estate of Kim, and then Gary was able to get that all himself,
3 sell his super voting shares and at least get to a point where
4 he, you know, had A shares as opposed to B shares. But he
5 still was highly concentrated, and he was highly leveraged,
6 and so banks didn't -- HSBC, who was our main lender, didn't
7 necessarily feel comfortable about enabling him to borrow any
8 more money in any fashion.

9 Q. And was there -- or let me ask it this way. Did you-all
10 try to persuade HSBC that they should accept the Stanford
11 International Bank investment as something that should support
12 the loans to Mr. Magness --

13 A. I --

14 Q. -- or did you just take their denial?

15 A. I didn't. Tom Espy could have talked to them again, but
16 I took their no to be no.

17 Q. Do you recall talking to Mr. Espy about the discussion
18 with HSBC?

19 A. He and Gary talked directly to each other, and they
20 didn't include me often in their conversations.

21 Q. Do you recall any further discussion between yourself and
22 Mr. Magness about the discussion with HSBC concerning
23 Stanford?

24 A. Well, he was angry about it because things were bleak,
25 looking -- getting bleak, but it wasn't an option, so we

1 pressed on.

2 Q. What was your understanding of the significance of
3 Stanford being an offshore investment from HSBC's investment
4 as it was communicated to you?

5 A. Well, I think that just made it riskier or certainly less
6 easy to -- to talk to people about.

7 Q. Beyond the discussion on risk and being an offshore bank,
8 do you recall any other comments from HSBC that were
9 communicated to you or Mr. Magness about the Stanford
10 investment?

11 A. No.

12 Q. Did you talk to any other banks besides HSBC about using
13 the Stanford investment as collateral for loans to Mr.
14 Magness?

15 A. Not that I know of. HSBC was pretty much it for us at
16 that point in time.

17 THE COURT: Are we finished or just pausing for the
18 end of the day.

19 MR. PETRIE: We are just pausing for the end of the
20 day, Your Honor. We can stop or go on.

21 THE COURT: How much more do you have?

22 MR. PETRIE: This is a long one. There is still a
23 couple of hours.

24 THE COURT: Then, yeah, let's stop for the day.

25 So have a very pleasant evening, a safe trip home and

1 back. We'll see you tomorrow at 9:00.

2 (Whereupon, the jury left the courtroom.)

3 THE COURT: So a little housekeeping issue. On the
4 depos, are you-all going to tell me how to allocate the time
5 since I understand we're running both sides' designation
6 straight through?

7 MR. PETRIE: Yes, we will do that.

8 MR. SADLER: We are keeping track of that and
9 splitting 50/50 anything that's double-designated.

10 THE COURT: Okay. Then pending that today, I show
11 Magness parties at 124 minutes and the Receiver at 204
12 minutes. And there's about 47 minutes worth of Dokken that
13 we'll need to split up.

14 Anything else for today?

15 MR. SADLER: No, sir.

16 MR. PETRIE: No, thank you.

17 THE COURT: Okay. Have a good evening. See you
18 tomorrow.

19 (The proceedings were concluded at 5:00 p.m.)
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21
22
23
24
25

1 I HEREBY CERTIFY THAT THE FOREGOING IS A
2 CORRECT TRANSCRIPT FROM THE RECORD OF
3 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.
4 I FURTHER CERTIFY THAT THE TRANSCRIPT FEES
5 FORMAT COMPLY WITH THOSE PRESCRIBED BY THE
6 COURT AND THE JUDICIAL CONFERENCE OF THE
7 UNITED STATES.

8
9 S/Shawn McRoberts 01/10/2016
10 _____DATE_____
11 SHAWN McROBERTS, RMR, CRR
12 FEDERAL OFFICIAL COURT REPORTER
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APPENDIX D

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
 DALLAS DIVISION

3 RALPH S. JANVEY, IN HIS (CAUSE NO. 3:15-CV-401-N
4 CAPACITY AS COURT-APPOINTED)
5 RECEIVER FOR THE STANFORD (
6 INTERNATIONAL BANK, LTD.,)
7 et al., (
8 Plaintiff,)
9 (
10 vs.)
11 (
12 GMAG LLC, MAGNESS SECURITIES)
13 LLC, GARY D. MAGNESS, and (
14 MANGO FIVE FAMILY, INC., IN)
15 ITS CAPACITY AS TRUSTEE FOR (
16 THE GARY D. MAGNESS IRREVOCABLE) DALLAS, TEXAS
17 TRUST, (
18 Defendants.) JANUARY 11, 2017
19 (9:00 A.M.

20 VOLUME 3

21 TRIAL ON THE MERITS
22 BEFORE THE HONORABLE DAVID C. GODBEY
23 UNITED STATES DISTRICT JUDGE
24 and a jury

25 SHAWN M. McROBERTS, RMR, CRR
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1 P R O C E E D I N G S

2 THE COURT: Good morning. All set?

3 MR. PETRIE: Just a logistical question. Would you
4 like us to have our eye out, say, towards 10:30 for the
5 stopping point when we hit a break place?

6 THE COURT: You think the deposition has got more
7 than an hour and a half.

8 MR. PETRIE: I know it does, sir.

9 MR. SADLER: It will run close to the lunch break.

10 THE COURT: Yeah. 10:30, 10:40, close to that
11 range. I don't really care but in that range.

12 Are we ready for the panel?

13 MR. SADLER: Yes, sir.

14 MR. PETRIE: Yes, sir.

15 (Whereupon, the jury entered the courtroom.)

16 THE COURT: Be seated.

17 Good morning. How's everyone doing? Good. I anticipate
18 our normal schedule today. I understand from the lawyers that
19 the completion of the video deposition is likely to go most of
20 the morning, so we're going to go till somewhere around 10:30
21 or so and take a morning break there, and then wrap that up.
22 And if it doesn't go quite till 12:30 we will start with the
23 next witness and lunch break at 12:30.

24 So that's our plan. We will see if it actually works out
25 that way.

1 Are we ready to proceed?

2 MR. PETRIE: Yes, sir.

3 THE COURT: All right.

4 TONYA DOKKEN, BY VIDEO DEPOSITION, continued,

5 Q. Turning back to Plaintiff's Exhibit 181, we have three
6 entities listed and then Gary Magness himself. When we looked
7 at the earlier exhibit, there was quite a long list of
8 entities.

9 My question is, how were these three entities in
10 particular chosen to be on the net worth analyses that 181 is
11 an example of?

12 A. Are you talking about the stocks?

13 Q. No. Why are the entities --

14 A. Oh. These were the --

15 Q. On the net worth statement, why are the entities --

16 A. Oh. These are the entities that hold stock.

17 Q. I see.

18 A. These are the only entities that held stock, sort of
19 defined by where it came from. Gary's shares were his earlier
20 gifted or whatever from his family. Magness Securities was
21 strictly his mother. GMAG was a compromise of things, and
22 GMIT was his father's estate.

23 Q. The entities -- if you could turn back to Plaintiff's 118
24 for a moment. Are the entities that are listed there entities
25 in which Mr. Magness had an ownership interest?

1 A. Well, it would depend on how you looked at it. I mean,
2 obviously he has an ownership interest in all of these. But
3 many of them are owned by the Trust, which is -- I mean, he is
4 the trustee of the Trust, but the Trust was funding all of
5 those entities then, so the data center, the land and cattle
6 operation, those sorts of things.

7 So a lot of these things that are in here are actual
8 ranching operations, just under various names. So the Trust
9 would fund those as well.

10 Q. I see. So if the Trust had an interest in one of these
11 entities that are listed on Plaintiff's Exhibit 118, and those
12 entities had some contributory value to Mr. Magness's net
13 worth, we would see them listed on a report like Plaintiff's
14 181. Is that fair?

15 A. I think in the back, like this -- we didn't -- we didn't
16 put them on. We tried -- you could never know what they were
17 worth, let's put it that way. So the summary provided for
18 U.S. Bank, that was just stock and that sort of thing, things
19 that were quantifiable where you got a value from someone.

20 But the net worth of all entities back here included some
21 valuations, some guesstimates, I guess that you would say, of
22 what some things were worth. Like this has his houses on it,
23 for example. It has --

24 Q. Could you just tell us for the record what pages you are
25 looking at?

1 A. I am looking at 014255.018.

2 Q. Okay.

3 A. And going on then to .019.

4 Q. So .19, for example, you see Mango Racing, which I think
5 was one of the entities on 118. Right?

6 A. Yes.

7 Q. Okay.

8 A. And so you'll notice on here a lot of the costs are the
9 fair market values, like Mango Racing, for example. We had no
10 idea how much his collector cars were worth. Other ones we
11 could kind of guess what they might be worth from -- you know,
12 like the housing market in Colorado having gone up, for
13 example. The Mitch Oil and Gas investments, they were pretty
14 much at cost, just a little above cost. He ended up losing
15 all of that money.

16 Q. So at pages 017 through 021 in Plaintiff's Exhibit 181,
17 the title page or the title of each page says net worth of all
18 assets, Forbes analysis. What does that mean?

19 A. Well, we didn't ever have to give financial statements to
20 anyone for any reason except for the banks, and the banks
21 didn't care about any of the rest of these assets. They only
22 cared about the stock. So they would never have taken the
23 data center in lieu of, you know, a payment when they -- you
24 know, they only wanted to go after the stock.

25 But we did this -- we had to do this for Forbes for him

1 to be able to be on Forbes. So we did this kind of for
2 ourselves as well to figure out what the actual net worth of
3 things were, including the assets. So the data center on here
4 was at the time valued at \$120 million. Magness Land
5 Holdings--that's a cattle ranch--was valued at \$40 million.
6 That's mostly the water rights. Bye Bye School was a house
7 that they bought through the Trust for some reason, and
8 Camelback was a condo they inherited down here from his
9 parents, his dad.

10 Q. Down here being Phoenix?

11 A. Yes.

12 Q. And when you say including the assets, you mean including
13 the nonliquid assets?

14 A. Yes.

15 Q. And what did you mean by to be in Forbes?

16 A. The Forbes 400, the Forbes billionaire list, you had to
17 prove to them what it was that everything was worth. It
18 was -- it's an arduous process.

19 Q. I see. And so were you making a submission to Forbes,
20 the magazine, to show what Mr. Magness' net worth was at
21 various points in time?

22 A. At various points in time, and then they would discount
23 however they thought it should be discounted, and sometimes he
24 was on the list and sometimes he wasn't. They never took it
25 at face value, except for the stock. The stock was

1 quantifiable.

2 Q. Right. Okay. So let's just, if we could, briefly walk
3 through the other schedules. I just want to make sure I
4 understand what each of them reflects.

5 So what is the purpose of Schedule A on Plaintiff's
6 Exhibit 181?

7 A. Schedule A lists every entity with a cost basis and the
8 current price at the date on the top, price per share, and it
9 calculates also the gain/loss. If you go to the end, it shows
10 you the unrealized gain/loss. And then it also lists the
11 associated margin with the entity. So U.S. Bank, their value
12 was \$120 million. Their debt was \$67 million on page 1.

13 Q. Okay.

14 A. Stanford Group, not to be confused with Stanford Bank,
15 they had \$121 million in assets, \$14 million in debt. Merrill
16 Lynch had \$180 million in assets and \$57 million in debt. And
17 HSBC had the biggest debt, \$143 million against \$324 million
18 in assets.

19 Q. Okay. And then there's a section referring to stocks in
20 safekeeping. What is that?

21 A. That was before Kim died, and they had this TCIP stock
22 that -- it was a preferred stock for TCI. It paid nine
23 percent, and so they get the nine percent on that every
24 quarter.

25 Q. And who held that stock? Who held the certificates?

1 A. We did in a safe.

2 Q. In a safe?

3 A. Yeah.

4 Q. Okay.

5 A. And it was broken down in the -- the shares here. So
6 everybody had some. And then everybody got this -- this
7 income, all of the companies, and Gary allocated to them.

8 Q. All right. On page 004, there's a line for Stanford
9 International Bank CD, and that's simply how much is listed on
10 the books of Stanford at this given time?

11 A. Yes.

12 Q. And then J.P. Morgan Chase/HSBC derivative, what does
13 that refer to?

14 A. Gary bought a derivative from HSBC for J.P. Morgan. So
15 it was a \$10 million derivative, and it was going to pay, I
16 think, 12 percent interest or something like that. But before
17 he really had a chance to realize any interest from it to
18 speak of, he was forced to sell it for the margin calls.

19 Q. Do you know when he sold it?

20 A. I would imagine a day or two after this.

21 Q. And do you know when he got into that investment?

22 A. I believe it was during this month. He had a big
23 penalty, if not the month before, but right at this same time.
24 He did not have it very long.

25 Q. All right. And then the funds that are listed, these are

1 the hedge funds or private equity type investments that you
2 described?

3 A. Right. Right.

4 Q. All right. And then Schedule B, the difference between
5 Schedule B and Schedule A is what, that they're -- that the
6 cost basis is included here?

7 A. No. This is the one I'm talking about where it's just
8 the stock, as you can see, so it's -- if you look at the end,
9 you can see how much it is that he has in value in LINTA, what
10 the basis was and what the unrealized gain/loss was.

11 Q. So not broken down by bank?

12 A. No. It is just broken down by -- by stock and entity.

13 Q. Okay.

14 A. And this was, you know, what we would look at, so if Gary
15 were to sell something, the problem with being sold out on
16 this stock is that because he received it through his father's
17 estate, he had very little basis in it. So being sold out,
18 even if it's gone down to half the price, still results in a
19 huge -- huge tax consequences, which requires even more money
20 when you're selling.

21 Q. All right. And what is reflected on Schedule C at 006 to
22 007?

23 A. Oh, this is just trying to show what industry it is that
24 you might be in so that we could say that we just really
25 weren't in -- completely and totally in, you know, the cable

1 industry or whatever, but they didn't really look at it this
2 way so much.

3 Q. Who is they?

4 A. Banks.

5 Q. And then what is reflected at Schedule D and 008 and 009?

6 A. Oh, well, this shows what the stock was in any given
7 year, so that you could see what the -- whether it's gone up
8 or not. So if you look at the bottom of this Schedule D,
9 .009, then you can see that his debt basically over this
10 period of time increased. In 2007 it went down a little, but
11 then it was back up in 2006, and down slightly in 2004 and
12 back up in -- you know, as you go along.

13 Q. Okay. So just reading right to left --

14 A. 2008 it was 283. And the reason, because of that, in
15 September these sell-offs had already started. So it was
16 paying down the margin from its high.

17 Q. Now, out of the schedules that we looked through or the
18 schedules that -- in the remaining pages, which were the ones
19 that you used most heavily?

20 A. A and B, and then the ones that aren't on here were the
21 individual calculations of the -- of the loan collateral
22 positions, which showed us what the -- what the triggers were,
23 that there was a 35 percent release of only four stocks, and
24 the floor was \$3 or \$5 or whatever it might have been, and the
25 release was whatever, and it was kind of a long, complicated

1 formula so we could know how close we were.

2 Q. But that analysis of the loans and the triggers, that's
3 not within Plaintiff's 181?

4 A. No.

5 Q. Plaintiff's 5 is in the notebook in front of you. I
6 wonder -- can you please turn to Plaintiff's Exhibit 5?

7 A. Yes.

8 Q. Okay. Now, this is the minutes of the organizational
9 meeting of the directors and voting shareholder of Mango
10 Family -- Mango Five Family, Inc. Correct?

11 A. Yes.

12 Q. And if you turn to the third page of the exhibit, Magness
13 002887, there is a section regarding election of officers. Do
14 you see that?

15 A. Yes.

16 Q. Okay. And Mr. Robert Armstrong is the president. Who is
17 Mr. Robert Armstrong?

18 A. He is our Nevada trust company trustee and the president
19 of MFFI.

20 Q. How long have you known Mr. Armstrong?

21 A. Probably since this date, I would imagine.

22 Q. And what's Mr. Armstrong's profession?

23 A. He's an attorney.

24 Q. Do you know if he has any special investment expertise?

25 A. It would appear that he does from conversations, but I

1 don't know.

2 Q. And what makes you say that it appears that he does from
3 conversations?

4 A. Because he's very bright and knowledgeable about
5 investments.

6 Q. Mr. Steve Knudson is listed as the vice president. How
7 long have you known Mr. Knudson?

8 A. Probably since 1989 or '90.

9 Q. And how do you know him?

10 A. He is a friend of Gary's and also an attorney and an
11 employee and the vice president and the head of Fortrust, our
12 data center.

13 Q. He was an employee of what entity?

14 A. Magness Investment Group.

15 Q. Did you sometimes refer to Magness Investment Group as
16 MIG?

17 A. Yes.

18 Q. Okay. And Mr. Knudson, did he have any special expertise
19 in investing that you know of?

20 A. Well, I think he had, you know, some experience and
21 probably learned a lot more as time went on. When I first met
22 him, he was an attorney -- you know, an attorney for real
23 estate transactions primarily.

24 Q. He was eventually running Fortrust?

25 A. Yes. I think he still is.

1 Q. And Fortrust is a -- what kind of company?

2 A. A data center.

3 Q. The fourth name is Raymond L. Sutton, Jr. He's listed as
4 the secretary. When did you meet Mr. Sutton?

5 A. I probably met him when I first started working for Gary
6 individually around '95 maybe.

7 Q. And what's Mr. Sutton's occupation?

8 A. He's an attorney, a trust attorney.

9 Q. Where was he based at this time?

10 A. Baker Hostetler.

11 Q. In Colorado?

12 A. Yes.

13 Q. And did he have any special expertise in investing that
14 you knew about?

15 A. Well, I guess his expertise in investing was from the
16 trust side of estate planning or whatever. I don't really
17 know his personal background.

18 Q. How often did the Mango Five Family, Inc., meet?

19 A. Quarterly, but sometimes not that often, depending on
20 what was happening.

21 Q. And did you always attend the meetings?

22 A. Yes.

23 Q. Aside from yourself and the officers of the -- of the
24 mango Five Family, were there other regular attendees at those
25 meetings?

1 A. There were no regular attendees per se, but from time to
2 time we would call in various brokers or bankers or other
3 advisors or different people from our office who were talking
4 about certain things that were an issue or under discussion.

5 Q. And at those meetings, were there any audio or visual
6 recording?

7 A. No.

8 Q. Did people take notes?

9 A. Mr. Sutton was the secretary, and he took the notes that
10 ended up being these documents. I always took notes myself,
11 and then just compared them against his final version, and
12 then I would just get rid of my notes. Sometimes I would file
13 them. I would sort of make a to-do list based on what it was
14 that we had decided.

15 Q. Let me talk to you about Stanford. When did you first
16 hear about the Stanford Financial Group or Allen Stanford?

17 A. Probably in '98, '97, '98, somewhere around in there.

18 Q. And how did you come to hear about Stanford?

19 A. We had proceeds from the casino bond issuance and wanted
20 to make some money on those. We're looking for the best
21 interest rate to, you know, make on that while we waited to
22 pay the bond money back, before we had to make our first bond
23 payment. And Tom Espy and Steve Knudson found Stanford. I
24 think Tom was maybe working there then. I'm not sure. And so
25 either KMM Parking or Cherokee Lending, one or the other of

1 those entities, bought a CD.

2 Q. Who is Tom Espy?

3 A. He was Gary's broker and friend.

4 Q. And how far does that -- how far back was Mr. Espy Gary's
5 broker, as far as you know?

6 A. Certainly in the '90s, I think.

7 Q. So what was your understanding how Mr. Espy and Mr.
8 Knudson found Stanford and what did they tell you about it, if
9 anything?

10 A. They didn't tell me anything about it. They cut me out
11 of it completely and went directly to Gary and then only told
12 me about it when they had to spend the money.

13 Q. Tell me about that, they had to spend the money. What
14 does that mean?

15 A. They had to get the money to pay for it, you know, the
16 CD. It had to be transferred, so -- I could never draw on any
17 of Gary's lines of credit or borrow on his LLCs, but I was
18 able to transfer money between accounts. So they needed the
19 money to be in a particular account so that they could buy the
20 CD.

21 Q. I see. And so the money needed to be wired from the
22 Magness Group to Stanford?

23 A. Yes.

24 Q. And that is the point at which you got involved?

25 A. Well, it wasn't the Magness Group. It was KMM Parking or

1 whatever, whichever entity it was, and, yes, that's when I got
2 involved.

3 Q. Is Mr. Espy somebody you knew well at the time, 1997 or
4 1998?

5 A. No.

6 Q. Did you come to understand that Mr. Espy worked for
7 something called Stanford Group Company?

8 A. Yes. And he -- he probably was working for them then,
9 but Gary's initial broker at the Stanford Group Company was
10 Gary Hamilton, who had been his broker before at a different
11 entity.

12 Q. Do you know when Mr. Hamilton started working at Stanford
13 Group Company?

14 A. When they opened their offices in Denver.

15 Q. What kind of investments did Mr. Hamilton handle for Mr.
16 Magness at the beginning with Stanford Group Company?

17 A. Just the personal investments that Gary wanted to make,
18 aside from any Liberty-related stock, so all these little
19 companies that you see on here that have no balances or
20 nothing in them or whatever, some of those probably. Gary
21 would buy a few hundred shares of something and play the
22 market, wait for it to go up, sell it, you know, then buy
23 something else.

24 So he traded individually with Gary Hamilton. And then
25 at some point, Gary Hamilton left, and I don't remember where

1 he went. And Tom Espy started working there, and so Gary
2 started working with Tom.

3 Q. And when you were referring to the entities that are
4 listed on the piece of paper, are you referring to Plaintiff's
5 181?

6 A. Yes, but these probably weren't the stocks back in those
7 days. But these stocks that all have zeros on them, they were
8 little stocks. He never bought very many of them, or it was
9 never worth very much money.

10 Q. And did Gary Magness have a relationship with Gary
11 Hamilton going back before Stanford Group Company that you
12 knew about?

13 A. Yes. He was his broker prior, and he and his wife were
14 friends with Gary and his then wife Shelley.

15 Q. And do you know if Gary Hamilton, what happened to him
16 after he left Stanford Group Company?

17 A. He went to another brokerage firm.

18 Q. And did Mr. Magness continue to work with Mr. Hamilton
19 after he left Stanford Group Company?

20 A. Not that I recall.

21 Q. And did Mr. -- I think you said this, but I just want to
22 make sure. Mr. Espy was Mr. Magness' broker prior to the time
23 he was at Stanford Group Company?

24 A. I don't think so. He was a broker with someone, but I
25 don't think that Gary had done business with him until he went

1 to Stanford.

2 Q. Okay. Do you know if Mr. Espy had ever been a broker for
3 any of Mr. Magness' other family members prior to the time he
4 was at -- he was working with Mr. Magness at Stanford Group
5 Company?

6 A. I'm pretty sure he wasn't.

7 Q. Was not?

8 A. Was not.

9 Q. Okay. Can you please take a look at Plaintiff's Exhibit
10 12?

11 A. It was KMM.

12 Q. Well, let me -- let me give you two to look at.

13 A. Okay.

14 Q. There's Plaintiff's 11 and 12. Just take a quick look at
15 both of those.

16 A. Oh, it was Cherokee and KMM. No wonder I thought it was
17 one or the other. It was both.

18 Q. Well, and that's part of my question, is whether you know
19 if it was both or one is a correction of the other?

20 A. I'm pretty sure one is a correction of the other. Oh, at
21 this point in time I was still a controller. I think it
22 started out we're closing in on the dates. I think it started
23 out being in Cherokee but ended up having to be in KMM because
24 of the way the bond proceeds or something happened.

25 Q. Okay.

1 A. I'm not sure. But it definitely is -- these are
2 duplicates of each other.

3 Q. All right. So if it's -- it started out with Cherokee,
4 that's Plaintiff's Exhibit 11, so let's look at that first.

5 A. Okay.

6 Q. The paperwork at Plaintiff's Exhibit 11, if you'll turn
7 to the last two pages, it looks like it -- this is all signed
8 around January 28th, 1999?

9 A. Uh-huh.

10 Q. Okay. Is that yes?

11 A. Yes, it is.

12 Q. Okay. And then you are -- your information is listed
13 here as, as you said, as controller of Cherokee lending
14 company and then Mr. Knudson is listed as manager. Is that
15 right?

16 A. Correct.

17 Q. Okay. And the amount of the CD is four and a half
18 million dollars?

19 A. Yes.

20 Q. Okay. When you found out about this transaction, did you
21 have any reaction to whether this was a good or bad use of
22 these funds?

23 A. Oh, I myself am very conservative. I'm always the person
24 who tells Gary he should sell stock to pay off the margin as
25 opposed to borrowing, so I would imagine that I was concerned.

1 Q. What would you imagine you were concerned about?

2 A. I didn't know anything about them, and I was probably
3 miffed that they had cut me out of any conversations in the
4 first place, so it was probably more that than anything.

5 Q. You said you didn't know anything about them, meaning the
6 bank or --

7 A. The bank.

8 Q. Okay. And you were miffed that Mr. Espy and Mr. Knudson
9 had cut you out of the conversation?

10 A. Yes.

11 Q. Okay. What did Mr. Knudson and Mr. Espy tell you about
12 the investment at the time they told you they needed the
13 money?

14 A. That it was a good way to make the arbitrage on -- you
15 know, make more interest on this than -- than they could make
16 anywhere else, make, you know, make that up, be able to have
17 more money to be able to pay off the bondholders when the time
18 came.

19 Q. And what did they tell you about the bank?

20 A. That it was based in Houston, and they had great returns
21 and that sort of thing.

22 Q. Did they tell you anything about its relationship--that
23 is, the bank's relationship--with the island of Antigua?

24 A. I don't recall them telling me that then, no.

25 Q. Did you review any materials in connection with the

1 investment aside from the documents you signed in Plaintiff's
2 Exhibit 11?

3 A. No, I never saw any materials at all. They gave them
4 directly to Gary.

5 Q. You said signed. Did you mean read?

6 A. Read, saw.

7 Q. Okay. Did you review the materials that are on
8 Plaintiff's Exhibit 11?

9 A. Yes, probably.

10 Q. Do you recall anything standing out to you in particular
11 when you reviewed Plaintiff's Exhibit 11?

12 A. Not really.

13 Q. On page 140513, there is an accredited investor
14 certification.

15 A. Uh-huh.

16 Q. Are you familiar with what an accredited investor is?

17 A. Well, it's basically that you're a person who has so much
18 money and is able to do this, is what I recall of it.

19 Q. On this particular form, the box for -- the box is
20 checked for the depositor being an organization described
21 under 501(c)(3) of the Internal Revenue Code --

22 A. An LLC.

23 Q. -- a corporation, or similar trust or partnership, with
24 total assets in excess of \$5 million. Is that right?

25 A. Yes. It was an LLC.

1 Q. It was an LLC.

2 A. Which falls under the partnership tax section.

3 Q. It was not a charitable organization, I assume?

4 A. No.

5 Q. And it did have total assets in excess of \$5 million?

6 A. Yes.

7 Q. Okay. Turning to Plaintiff's Exhibit 12, this is then
8 the correction or the -- or the change of entity so that now
9 the CD will be held by KMM Parking rather than Cherokee
10 Lending. Is that right?

11 A. Correct.

12 Q. Okay.

13 A. Still one LLC.

14 Q. And, again, did you ever discuss this investment in
15 Stanford International Bank with Mr. Magness himself?

16 A. Oh, I'm sure I did.

17 Q. What do you recall about that?

18 A. Mostly that I was, you know, miffed that I didn't know
19 anything about it and that I felt that he should have at least
20 included me in the conversation or let me see the documents or
21 something before.

22 Q. Do you recall what he said?

23 A. Screw you or something like that, probably; I can do
24 whatever I want.

25 Q. Do you recall discussing with him the nature of the

1 investment, whether it involved any undue risk?

2 A. No.

3 Q. So looking from 1999 forward, did Mr. Magness continue to
4 work with Mr. Espy making investments through Stanford Group
5 Company?

6 A. Yes. At some point after this date Gary Hamilton left
7 and then Gary Magness worked with Tom Espy there.

8 Q. And aside from this one investment in the CD, were those
9 investments largely just stocks, stock investments?

10 A. Uh-huh. Yes.

11 Q. When was the next time you recall anybody, whether it's
12 Mr. Espy or Magness or some other person, raising the
13 possibility of the Magness entities investing in a Stanford
14 International Bank CD?

15 A. I imagine -- it seems like maybe 2002 or 2003. I don't
16 know. I wish I had a directory of exhibits and I could tell
17 you.

18 Q. Well, what do you recall about how it came up?

19 A. That the KMM Parking thing had gone well, and now the
20 interest rate was higher or maybe it was the same. I don't
21 know. Anyway, it was a good -- a good investment.

22 Gary needed income, and so the idea was that he could
23 borrow the money to invest in Stanford and make a higher
24 interest rate from Stanford to be able to pay off the debt
25 that he had for the money that he borrowed and have some

1 operating income on top of it.

2 However, that didn't really come to pass because he
3 decided to let the interest accrue rather than getting it paid
4 out monthly or quarterly or annually.

5 Q. Whose idea was it originally to create that arrangement?

6 A. I would imagine Tom Espy's.

7 Q. Well, and how was it communicated to you that that had
8 come up as a possibility?

9 A. Well, it was the same sort of thing in those early days
10 where Gary and Tom were best friends. Gary had been best
11 friends with Steve, but now he kind of changed his affection
12 to Tom. He was in the process of getting a divorce from his
13 wife, and Tom was divorcing his wife as well, and so they were
14 hanging out together a lot.

15 And they talked all the time about things. So anything
16 that was ever decided about what they were going to do was
17 told to me after the fact, and it was never, you know, what do
18 you think of this. It's just, this is what we're doing.

19 Q. You said Mr. Espy worked for Stanford Group Company, but
20 was there ever a point from 2000 to 2009 where he worked
21 directly for the Magness entities?

22 A. He didn't work for the Magness entities, but he worked in
23 our office. We had an office that had been -- it was another
24 office suite that was adjoined to ours from time to time, so
25 the wall would come down or the wall would go up depending on

1 whether we had that space or not.

2 Originally, our casino people worked in there when they
3 were doing all of the prep to get the casino up and running.
4 And so we still had it under sublease at some point, and Tom
5 moved in there with his secretary, who was Debbie Brush. And
6 we paid half of her salary. She did half of her work for us
7 and half of her work for Stanford, and Stanford paid Tom.

8 Q. Do you recall approximately what her -- what half of her
9 salary amounted to?

10 A. Maybe 20,000.

11 Q. Per year?

12 A. Yeah.

13 Q. What was the time frame of this arrangement?

14 A. Well, she was there in 2003. Oh, it's third of office
15 time then. But she was also good -- you know, the primary
16 receptionist, whatever, all kinds of other things.

17 Originally, I think it was half-and-half and she was working
18 for Stanford. But then Stanford closed their offices in
19 Denver or something. I don't exactly remember. But Tom came
20 to be with us.

21 Q. Just to be clear, Mr. Espy was never on the payroll of
22 Magness -- of any Magness entity as far as you know?

23 A. No. He received a finder's fee from putting together the
24 data center deal, but that was never -- it was never payroll.
25 So he was never on Magness Investment Group payroll.

1 Q. And how did the finder's fee come about?

2 A. He hooked up the guys with the idea with us for the data
3 center. They all worked for a Level Three at the time, which
4 is a -- they had dark fiber. Tom knew them, put the deal
5 together.

6 Q. And he did that outside of Stanford Group Company?

7 A. I believe so.

8 Q. Okay. And the finder's fee was paid outside of any fee
9 of Stanford Group Company?

10 A. Yes. It was paid by the data center to him.

11 Q. Okay. And do you know approximately what the finder's
12 fee was?

13 A. \$400,000.

14 Q. Was that paid out over time or all in a lump sum?

15 A. One lump sum, I believe.

16 Q. And approximately when was that?

17 A. 2001 maybe or 2002. So Tom Espy had taken over a major
18 role as an advisor to Gary at that point in time when they
19 were such close friends.

20 Q. Going back to the KMM Parking investment, at the time
21 that investment was made, were you aware that Stanford Group
22 Company and Mr. Espy were going to receive a referral fee from
23 Stanford International Bank?

24 A. Absolutely not.

25 Q. After Mr. Espy and Mr. Magness returned from their first

1 visit to Antigua, did either of them tell you anything about
2 what they had learned about the bank or the island?

3 A. They talked a lot about Jumby Bay, how beautiful it was,
4 how much fun it was. And they met Juan Rodriguez, I think was
5 his name, and they thought he was smart.

6 Q. What was your understanding of what Mr. Rodriguez's role
7 was with respect to the bank?

8 A. I think he was the president of the bank.

9 Q. Did they tell you anything about what it was that the
10 bank did for itself? In other words, it pays money and
11 interest to investors, but how does the bank itself make
12 money?

13 A. They -- they talked about how they had invested in
14 everything, that there was noncorrelation between their
15 investments so that if commodities were up, stocks might be
16 down and vice versa, but they had enough offsetting
17 investments to negate, you know, there ever being a total drop
18 in their investments, and that they were in a lot of different
19 places, which then made them secure and safe because they were
20 here, there, and everywhere, China and everywhere.

21 Q. So, in other words, the bank took the money from the
22 investors and invested it in a portfolio of a bunch of
23 different things?

24 A. Yes.

25 Q. Okay.

1 A. In a bunch of different places.

2 Q. And they avoided risk by diversifying into a bunch of
3 different places and different market sectors and so forth.
4 Is that what you understood?

5 A. Correct.

6 Q. Did they say anything to you about the bank being
7 involved in some kind of a timing scheme--that is, it would
8 make money by investing in stocks and then selling the stocks
9 very quickly and taking advantage of market timing, for
10 example?

11 A. I don't recall that specifically.

12 Q. Did anybody suggest to you that Stanford International
13 Bank was making money and was able to do so because it was
14 involved in some kind of a day-trading scheme?

15 A. No.

16 Q. Anything similar to a day-trading scheme?

17 A. No.

18 Q. What else did they tell you about the bank, if anything?

19 A. I think after that first trip, that was about it.

20 Q. What was your impression of the bank, having heard what
21 you did after the first trip that Mr. Magness and Mr. Espy
22 took?

23 A. Well, it seemed like a good strategy. It was the sort of
24 the same strategy that a lot of people who came to pitch to
25 us, which happened all the time, said that they used, broadly

1 diversified and noncorrelated markets, you know, the same
2 thing. So it seemed -- we'd had a successful investment with
3 them before, so, you know, at that point in time there was
4 really no -- no warning bells.

5 Q. Did you have any concerns of any kind about the bank at
6 that time?

7 A. No.

8 Q. Was there any due diligence effort undertaken with regard
9 to the bank, other than the visit that took place to Antigua?

10 A. Yes. We had some advisors who did some research and that
11 sort of thing, talked about it. We talked to our other
12 brokers. We had, you know, various other brokers at this time
13 and asked their opinions.

14 Q. Who are were the advisors or brokers that you recall
15 talking to?

16 A. There was a group called Quellos out of Seattle,
17 Washington.

18 Q. And who at Quellos do you remember talking to about the
19 CD?

20 A. Chuck Wilk.

21 Q. Who else at Quellos, if anyone?

22 A. There's a whole bunch of people. I can't remember all of
23 their names.

24 Q. Do you recall the other Eric's last name?

25 A. No, I don't. I can see his face, but he was just like a

1 junior associate. He's the one who ran all the numbers, but
2 Eric Lindquist was the primary banker person.

3 Q. Okay.

4 A. So Gary was trying to approximate his TCIP stock that
5 paid a nine percent dividend.

6 Q. I take it at this time he didn't have any stocks that
7 were paying a similar dividend?

8 A. None.

9 Q. Okay. So I just want to make sure I understand the
10 approach. If Mr. Magness wanted to put a million dollars into
11 the Stanford CD, he could borrow a million dollars from one of
12 these other banks. Then that would be secured by his stock?

13 A. Yes. So he borrowed on the margin, borrowed all the
14 money on the margin, and paid that interest, and then invested
15 in the Stanford CD and made a differential of a few points, a
16 couple of points, three points, whatever. The interest rates
17 were kind of high back then for borrowing money.

18 Q. And so a million dollars borrowed, he would have to have
19 what, \$2 million worth of stock, roughly?

20 A. Yes.

21 Q. And he would borrow it at approximately what percentage
22 in the early 2000s?

23 A. Oh, it was LIBOR plus how many basis points then.
24 Probably two, LIBOR plus two, so it was sometimes seven
25 percent, five percent.

1 Q. So --

2 A. I mean, LIBORs run the gamut of being all over the place,
3 but it was always LIBOR based.

4 Q. So then the goal was to make the spread between five or
5 seven and nine? Is that right?

6 A. Well, try -- yeah, try to make -- try to get up to nine,
7 which is where -- what he was making these other things, so he
8 was hoping to get, you know, some percentage like that.

9 Q. But if he had to borrow at five or seven percent and he
10 can only get nine or ten from Stanford, he was going to make
11 net what, a couple, three points?

12 A. Yes.

13 Q. And in doing so, he was going to put a million dollars'
14 worth of his stock at risk. Right?

15 A. Two, in essence, if you think about the doubling.

16 Q. Sure. But, I mean, if he -- if he lost the million,
17 let's say --

18 A. Yeah.

19 Q. -- and he had to pay the bank back, he could sell a
20 million of his stock and he would pay the bank back in full.

21 A. Yeah.

22 Q. Anybody in your group suggest or talk about whether that
23 made sense as a strategy, trying to make two or three percent
24 and putting that much stock at risk?

25 A. Well, many of us for a long time had felt that his debt

1 was risky, just his general debt. He was up to over 400
2 million at one point. That's a lot. So it wasn't about
3 necessarily the Stanford transaction. It was just his general
4 reluctance -- reluctance to sell stock and only wanting to
5 borrow to support his lifestyle and his other businesses.

6 Q. Was there something in particular in 2002, 2003, leading
7 into 2004, that led Mr. Magness to wanting to put money into a
8 fixed income investment rather than buying more stock and then
9 just continuing to leverage through this margin strategy?

10 A. I think it was probably the -- the bubble in 2002 or
11 whenever it was where the stock went down and he had some
12 stock called away. He always thought of that eventual hundred
13 million that he had there as being completely accessible and
14 for him to be able to get it back to pay down margins if he
15 ever needed to.

16 Q. The hundred million at Stanford --

17 A. Uh-huh.

18 Q. -- at the bank in Antigua?

19 A. Yes.

20 Q. And at the early time before the first investment, was
21 there any discussion about the risk associated with the bank
22 being an offshore bank?

23 A. HSBC talking to them was the first time that I heard
24 anybody really talk about that being an issue.

25 Q. And that was around 2007 or 2008, sometime in that time

1 frame?

2 A. It might have been earlier. I don't remember.

3 Q. Okay. What did Mr. Bell say about the Stanford
4 International Bank that you can recall?

5 A. That Gary should put his money with him.

6 Q. With Mr. Bell?

7 A. With Mr. Bell or, alternatively, not borrow money to make
8 the investment.

9 Q. What would be the alternative to borrowing?

10 A. Selling, which was never, ever an option.

11 Q. Did you make any recommendations to Mr. Magness in
12 connection with the decision to invest in Stanford
13 International Bank CDs starting in 2004 and going forward?

14 A. The only thing that I really recall about that period of
15 time was sometime after 2004, so it must have been late 2005,
16 Tom wanted Gary to invest more money because if he invested up
17 to a certain threshold, he would be able to get a better
18 interest rate.

19 And Gary thought that Stanford was such a great
20 investment that he wanted his ex-wife and his brother's
21 estranged wife to have the opportunity to invest, too. So
22 they put on a big dog-and-pony show at Baker Hostetler's
23 office, and Laura -- whatever her last name was --

24 Q. From Stanford?

25 A. From Stanford.

1 Q. Was it Laura Pendergest?

2 A. Pendergest. All I could think of was Hildebrandt.

3 Pendergest was there and other people, Tom Espy, and they
4 declined to invest. But at that point in time I decided that
5 I would take the friends and family rate that was offered, and
6 I invested \$100,000 in January of '06.

7 Q. Is this -- this is a few months after the dog-and-pony
8 show, as you described it?

9 A. Yeah, probably a month or so. Shortly thereafter.

10 Q. Was Mr. Rodriguez at the presentation at Baker and
11 Hostetler?

12 A. I believe so.

13 Q. Was that like an -- was that an all-day meeting, was it a
14 couple of hours, or what do you recall about the amount of
15 time of that meeting?

16 A. It was no more than a couple of hours.

17 Q. And were there written materials distributed in advance
18 of the meeting?

19 A. Not in advance, but when you got there, then they had a
20 big PowerPoint presentation of their noncorrelation to the
21 market and all of their investments and their sectors and
22 their places and all of that stuff.

23 Q. What kind of written materials were available at the
24 meeting?

25 A. Performance documents that showed, you know, how well

1 they had done every year.

2 Q. Anybody from Stanford other than Ms. Pendergest and Mr.
3 Rodriguez that you can remember?

4 A. I think it was just them and Tom.

5 Q. What was your impression of Ms. Pendergest?

6 A. She's great. She had every statistic, every whatever
7 completely at her fingerprints. She was sharp. She was
8 bright. She was attractive. She was the best salesperson in
9 the world.

10 Q. What about Mr. Rodriguez?

11 A. He was sincere. He was kindly.

12 Q. And do you recall getting any materials or written
13 materials about the Stanford investment after the meeting,
14 about -- about stanford International Bank?

15 A. No.

16 Q. In connection with any of the investments that Mr.
17 Magness or his entities made in 2004 and 2005 or your own
18 investment in January 2006, did anybody ever disclose to you
19 that Stanford Group Company was receiving a referral fee for
20 those investments?

21 A. No, I had no idea.

22 Q. Did you know that Mr. Espy was receiving a referral fee
23 in connection with those investments?

24 A. No.

25 Q. Did Mr. Magness ever tell you whether he knew that

1 Stanford Group Company or Mr. Espy were receiving a referral
2 fee in connection with the investments?

3 A. Fairly certain that he didn't think he was, that Gary
4 Magness didn't think that anybody was getting a referral fee.

5 Q. When was the first time you learned that Stanford Group
6 Company and Mr. Espy were receiving a referral fee in
7 connection with the Stanford International Bank investments?

8 A. After the demise of the whole thing.

9 Q. Did -- did Mr. Magness ever tell you when he learned that
10 Mr. Espy and Stanford Group Company were receiving a referral
11 fee in connection with Stanford International Bank
12 investments?

13 A. I thought that he learned after the fact, too, but I
14 don't know if he learned any sooner than that.

15 Q. Do you recall anybody within the Magness organization
16 making any study of the Stanford International Bank annual
17 reports prior to the Magness entities' investments starting in
18 December 2004?

19 A. I think that all of the discussions, or most of the
20 discussions at that time, were between Tom Espy and Gary
21 Magness. Tom would go to Gary's house, and they would have
22 their meetings there.

23 Q. And you were not a party to those discussions?

24 A. No.

25 Q. Do you recall anything specific about the investigation

1 that anybody from the Magness side made of Stanford
2 International Bank annual reports or other Stanford marketing
3 materials?

4 A. I don't think that anybody really paid attention verbally
5 to it until after MFFI was formed, and then it always was a
6 topic of conversation as a due diligence item on the checklist
7 of things to talk about.

8 Q. And how did that come up, that it became a topic of
9 discussion after MFFI was formed?

10 A. Well, because by that point they all -- the people on
11 your list were directors and trustees, and they had personal
12 liability to some degree about reporting things. And so every
13 investment was a part of the conversation. We talked about
14 the cattle ranches and about the data center and everything
15 specifically.

16 Q. What's the first time you recall Stanford International
17 Bank being discussed by people associated with MFFI?

18 A. At the first meeting, I would imagine. I mean, it was
19 discussed before then, but it wasn't discussed as regularly.

20 Q. And how was it discussed before the first meeting? In
21 other words, what was said about it and by whom?

22 A. Well, we would have conference calls, various conference
23 calls among people. I think at that point in time there
24 wasn't any really serious issues with anything. It was only
25 after the market crash started and all of the margin calls

1 started happening that it became more of a focus as a
2 potential source of money to pay off margin calls.

3 Q. Going back to the first meeting, do you recall anybody in
4 particular raising questions or asking -- asking questions
5 about Stanford International Bank, anybody associated with
6 MFFI?

7 A. Well, as I recall, the first meeting was two days, and
8 there was a lot of just general business to conduct as far as
9 all of those organizational documents and reviewing them all
10 and getting the authorization to get everything transferred
11 into the name, the proper names, you know, and change the
12 venue and that sort of thing. So a lot of that first meeting
13 was organizational more so than anything. I believe then we
14 just kind of touched on the assets that were held, like the
15 Schedule A, to familiarize Bob primarily with what Gary was
16 involved in so that he could, you know, know what he was
17 watching out for.

18 Q. And Bob is Bob Armstrong?

19 A. Yes.

20 Q. And did Mr. Armstrong raise any questions or have any
21 concerns when it was first described to him?

22 A. Not that I recall.

23 Q. Let's take a look at Plaintiff's Exhibit 32. Now, this
24 is an email from Chuck Wilk, who we talked about earlier, and
25 this is to Tonya@Magness.net, which is your email address.

1 Correct?

2 A. Uh-huh.

3 Q. Yes?

4 A. Yes.

5 Q. And then it's sent on May 22nd, 2006. Right?

6 A. Yes.

7 Q. And so at this point the Magness entities have invested
8 tens of millions in Stanford?

9 A. Correct.

10 Q. And you have personally invested \$100,000?

11 A. Yes.

12 Q. Okay. Now, Mr. Wilk is forwarding an article from
13 Bloomberg dated May 17th, 2006. Do you recall getting this
14 email?

15 A. Yes.

16 Q. And did you talk to Mr. Wilk about it?

17 A. I'm sure I did.

18 Q. Do you remember what you talked about?

19 A. Well, I think we just talked primarily about the fact
20 that he wasn't -- that he had kind of had been purporting
21 himself to be associated or descended from the Stanford
22 University family of Stanfords, and he wasn't, and just the
23 investment in general. And, you know, this was perhaps the
24 first time that we had any idea that there was something
25 afoot, I guess. But this isn't -- I mean, it doesn't really

1 say anything necessarily bad, just that he's not associated
2 with Stanford University.

3 Q. Did you read the article at the time Mr. Wilk sent it to
4 you?

5 A. I'm sure I did.

6 Q. At the bottom of page 13512 in the last paragraph --

7 A. Uh-huh.

8 Q. -- it starts, "That's where he ran into problems with
9 U.S. investigators." Do you see that?

10 A. Yes.

11 Q. And it says, "'In 1999 Stanford Financial tried to take
12 over Antiguan International Business Corp., which regulated
13 offshore companies on the island,' said Jonathan Weiner, who
14 was then a deputy assistant Secretary of State."

15 Did I read that correctly?

16 A. Uh-huh.

17 Q. It says, "State Department cables sent from the U.S.
18 Embassy described a 'power grab' and criticized the company's
19 hiring of U.S. consultants to revise Antigua's offshore
20 banking rules." Correct?

21 A. Yes.

22 Q. And then finally it says, "'The high-powered legal and
23 investigative hired guns from the U.S. are likely being tasked
24 with cleansing the files to make sure there is nothing in them
25 that could damage or implicate the American offshore banker,'

1 one cable read."

2 A. Correct. But then it goes on to say that the warning was
3 lifted about Antigua after they took steps to fight
4 money-laundering, so I didn't really see anything in this that
5 was alarming, per se.

6 Q. Did you discuss the State Department cables with Mr. Wilk
7 that you can recall?

8 A. I don't know that we necessarily discussed this -- the
9 State Department cables. We knew that there had been trouble
10 before, but it's kind of hard to know in retrospect. I mean,
11 obviously everything came out afterwards and then you know
12 everything. So now going back on this, it's hard to read it
13 freshly, I guess.

14 Q. Do you recall discussing the article or your conversation
15 with Mr. Wilk with either Mr. Magness or Mr. Espy?

16 A. I didn't really ever have very many conversations with
17 Mr. Espy. He always went directly to Gary, and their meetings
18 were always at Gary's house as opposed to the office. Gary
19 would come to the office from time to time, but that was more
20 coincidental than anything. He didn't come to the office for
21 meetings. Everybody went to him. So Gary could have had a
22 number of conversations about this with Chuck or with whoever,
23 but I'm -- I didn't talk about it with Gary.

24 Q. Or Tom?

25 A. Or Tom.

1 Q. After receiving the email approximately four months after
2 your first investment of \$100,000, did it give you any pause
3 about the safety or security of that investment?

4 A. No, because I always figured that I would get out before
5 Gary ever did anyway. It was a very temporary investment for
6 me. He had so much more money in there, I figured there would
7 never be a problem for me to get my \$100,000 out.

8 Q. I don't think I asked you this. Why did you decide to
9 invest in the Stanford CD?

10 A. Because it was paying a good interest rate. I got Gary's
11 interest rate, so it seemed like something that would give us
12 interest income.

13 Q. You said it was short term, though. I mean, were you
14 looking for someplace to put money for a short time period
15 until you could use it for something else?

16 A. Well, basically my husband and I were building a cabin in
17 Grand Lake, and we wanted to buy the property next door, which
18 was .2 acres, small lots. So we had tried to buy it, but the
19 woman wouldn't sell it to us originally. She wanted to hold
20 on to it.

21 And then she unexpectedly died, and I had nothing to do
22 with that, and her son -- her son needed money to pay taxes.
23 And so we were the logical people to buy it, and he came to us
24 and asked if we wanted to buy it, and we did. And so we got
25 out of the Stanford CD so we could buy the lot.

1 Q. But at the time you made the investment, was it -- did
2 you anticipate that it would be a short-term investment, or
3 did it just turn out that way?

4 A. No, I always expected that it was going to be certainly
5 more short term than long term.

6 Q. But did you have any particular reason to think that it
7 would be the time horizon that it ended up being?

8 A. Well, we were, as I said, building our cabin and trying
9 to buy -- we had been trying to buy the lot, so it just seemed
10 a good place to put the money and make some interest until we
11 could hopefully convince this old crazy woman to sell it to
12 us. And then she died.

13 Q. When you received the article from Mr. Wilk, did you or
14 Mr. Wilk make any further investigation of the things that
15 were described in the article or really anything else about
16 Stanford as a consequence of seeing the article?

17 A. I think that Mr. Wilk did, went on and did some research
18 and found out as much as he could find out. And I believe
19 that he talked to Laura Pendergest and Juan, and I'm sure they
20 gave him the whole noncorrelated in everything. It sort of by
21 the end became -- when we would have conference calls with
22 them, which we did more as -- you know, as it got towards the
23 end, they -- they said exactly the same thing.

24 And then that was -- that was what was more alarming. It
25 wasn't alarming at the beginning that they said these things.

1 That seemed brilliant. But when they then said the same thing
2 when we knew that that wasn't possible when the market was
3 crashing the way it was in -- you know, in late 2008, that was
4 when it was more alarming.

5 Q. Please turn to Plaintiff's Exhibit 45. Now, this is an
6 email from you to Mr. Magness and Mr. Espy, dated June 18,
7 2007. Is that correct?

8 A. Uh-huh.

9 Q. Is that a yes?

10 A. Yes, it is.

11 Q. Thank you. And mangorace@gmail.com, that's Mr. Magness'
12 email address?

13 A. Correct.

14 Q. Okay. And Tom Espy is Tom Espy.

15 A. Right.

16 Q. Now, you're advising them, that is, Mr. Magness and Mr.
17 Espy, on the sales of some stock and the reduction of Mr.
18 Magness' debt on the 309 million to 136 million.

19 A. Correct.

20 Q. Okay. So 136 million is a relative low point, I assume,
21 for his debt during the time period we've been looking at.

22 A. Yes.

23 Q. And then I think we saw toward the end of 2008, it crept
24 back up to 280 or -90 million.

25 A. Yes.

1 Q. Okay. What was the impetus for -- well, first, let me
2 ask, how was it that the debt was reduced so significantly
3 from 309 million to 136 million in this time period?

4 A. Well, we went through all of the junk stocks that he had
5 bought over the course of all of the years, the ones that he
6 was trading specifically with Tom Espy and prior to that with
7 Gary Hamilton. And he had a lot of lost positions in that
8 stock, and we wanted to take those losses.

9 So he was finally able to decide that he would part with
10 that so that we could use those losses on the tax returns for
11 whatever income thing it was that we had going on in 2007. I
12 don't remember what it was, but it was primarily income tax
13 driven. But then it resulted in, obviously, a lot of cash
14 that came in from getting rid of other positions.

15 Q. So was it a -- was it a combination of selling the
16 Liberty stock and taking gains and selling this what you
17 described as junk stock and taking losses to balance it all
18 out?

19 A. Yes, but he had gains from other entities that he was
20 trying to offset, and like I said, I can't remember what it
21 was in 2007 that was the gain that we were -- we were looking
22 to try to -- to cover.

23 But he would also sell his Liberty stock to -- and buy it
24 back in 30 days to step up the basis, because, remember, it
25 was zero basis stock. So if he was selling the losses, then

1 he, you know, could have sold the gains as well and then
2 bought it back in the following period.

3 Q. And how far back was he going through this kind of a
4 process--that is, sell Liberty stock, buy it back, and then
5 step up the basis?

6 A. From when I very first started working for him in '89.
7 He had way less stock to do it with then, but he always had
8 the zero basis problem or the very, very low basis problem.

9 Q. Okay. So he had an excess or he had -- not an excess.
10 He had a lot of cash and -- as he's making these sales as you
11 described, and so then I suppose he has a choice. He could
12 buy more assets or he could pay down debt. At this time it
13 appears there's a lot of paying down of debt. Is that what's
14 happening?

15 A. Correct. So MFFI, the board was always concerned about
16 the level of debt, and so paying down debt was the first
17 option. Buying back more stock at this point in time was not
18 as -- you know, was not what the board wanted him to do. They
19 wanted him to get the debt down to some reasonable fashion.
20 But I imagine, because the debt went right back up, that he
21 did, in fact, buy back the stock and step up the basis.

22 Q. On Plaintiff's Exhibit 45, this illustrates for us that
23 one of the ways that he can pay down his debt is to sell
24 stock. You can sell stock and that will give him cash
25 sufficient to bring his debt down to a lower level.

1 A. Yes, but it's not a net win if he buys the stock back.

2 Q. Right. But if he finds himself in a position where he's
3 got, say, \$309 million in debt, he can sell stock that he has
4 and reduce that in this case to 136 million.

5 A. Yes. But keep in mind that the stock that he's selling
6 has no basis and what he's making is a lot of capital gain,
7 which necessitates a lot of tax. So, you know, a third of it
8 went away. If he was just going to sell his stock, a third of
9 it goes away or more than a third of it goes away to begin
10 with to pay the IRS.

11 So he didn't ever have that many losses to be able to
12 harvest to offset the gain of selling his stock. So it was
13 completely selling stock to pay down the margin only, to pay
14 down the margin was really not his personal favorite thing to
15 do.

16 Q. And yet that's what he did in 2007 through the influence
17 of the board of Mango Five.

18 A. Yes. But I'm certain that he bought the stock back
19 that -- the Liberty stock back that he sold.

20 Q. Even if he was doing the step-up basis strategy, that
21 still involves paying taxes. Right?

22 A. Well, he harvested a lot of losses at the same time so he
23 was able to offset as much as possible. But then when he buys
24 the stock back, he borrows on the margin to buy the stock
25 back, so then the margin goes up again.

1 Q. Just take a look at Exhibit 132, Plaintiff's Exhibit 132,
2 which is in the notebook in front of you. Plaintiff's Exhibit
3 No. 132, this appears to be an agenda and minutes of the
4 regular meeting of the investment committee of Mango Five
5 Family for a meeting on June 21st, 2007. Is that right?

6 A. Yes.

7 Q. Okay. And on item two, there's a report on the
8 diversification of Liberty Media and affiliate stock. Is that
9 right?

10 A. Yes.

11 Q. Okay. And it looks like you were doing some reporting in
12 this section of the meeting. Right?

13 A. Uh-huh.

14 Q. And it says that you --

15 A. Yes.

16 Q. You reported -- thank you. You reported on the
17 continuing liquidation of Liberty Media and its affiliate
18 stock in accordance with the plan approved by the investment
19 committee on at (sic) February 26, 2007 meeting.

20 A. Yes.

21 Q. Is that consistent with your recollection?

22 A. Yes.

23 Q. Okay. And Liberty Media and its affiliates, that's
24 different from what you call the junk stocks that Mr. Espy was
25 trading. Right?

1 A. Yes. Gary never bought any junk stock in the Trust. He
2 only bought it in GMAG and himself personally.

3 Q. And you reported at the meeting that approximately \$150
4 million of stock had been liquidated, and I'm assuming that
5 that refers to Liberty Media and its affiliate stock. Is that
6 right?

7 A. Yes.

8 Q. Okay. And that amount was used to reduce the debt of the
9 Gary Magness Family Irrevocable Trust to HSBC by approximately
10 \$150 million. Is that right?

11 A. Yes.

12 Q. Okay. And so at this time the Trust owed about \$102
13 million.

14 A. Correct.

15 MR. PETRIE: Excuse me, Your Honor. Austin stopped
16 simply because it was 10:30, and it seemed like a convenient
17 break place.

18 THE COURT: Okay. Close enough.

19 Let's take our morning break now. We'll see you-all back
20 in 20 minutes.

21 (Whereupon, the jury left the courtroom.)

22 THE COURT: Anything else we need to take up?

23 MR. SADLER: No, sir.

24 MR. PETRIE: No. Thank you.

25 THE COURT: Did you all lose Mr. Bryant today?

1 MR. PETRIE: No. He's coming back shortly.

2 THE COURT: Oh, okay. Just wondering. All right.
3 We'll see you back in 20 minutes.

4 MR. PETRIE: Thank you.

5 (Brief recess.)

6 THE COURT: All set?

7 MR. SADLER: Yes, sir.

8 MR. PETRIE: Yes, sir.

9 THE COURT: All right. Let's bring them in.

10 (Whereupon, the jury entered the courtroom.)

11 THE COURT: Be seated.

12 Let's proceed.

13 TONYA DOKKEN, BY VIDEOTAPE DEPOSITION, continued,

14 Q. So out of the hundred -- well, we were just there.

15 A. The rest of it was spread among the other entities.

16 Q. So looking at -- I said Plaintiff's Exhibit 133, but why
17 don't we start with 134 because these are the minutes of the
18 board meeting. We'll just take them in chronological order.

19 So do I understand it right on October 1st, 2007, the
20 first meeting that would have been -- that would have taken
21 place was the one that was described in Plaintiff's Exhibit
22 134?

23 A. Yes.

24 Q. Okay. And there's a discussion at No. 5, again about
25 liquidation of Liberty stock, and Mr. Magness -- and at this

1 time we're talking about his personal investments rather than
2 the Trust. Right?

3 A. Right. That's where all the little stocks were.

4 Q. Okay. Why is there a discussion at a trust meeting about
5 what GMAG is doing with its investments? I'm not saying
6 there's anything wrong with it. I'm just wondering why that
7 would be.

8 A. Because we always included all of Gary's investments when
9 we were talking about his personal net worth and that sort of
10 thing, which is why GMAG and he and Magness Securities are all
11 on these schedules, because they affected each other. So if
12 GMAG arbitrarily sold everything it had, it could affect the
13 price of stocks at another entity, for example.

14 Q. Is that because the amount of stock that they have?

15 A. Right.

16 Q. Okay.

17 A. So it was just -- it was what we always did. Gary always
18 wanted to know his overall net worth, and he really never, I
19 don't know, distinguished between where it was that he owned
20 the money, stock. He did in the early days. That was when he
21 was so obsessed about keeping it all straight, but then later
22 on, it just kind of became him.

23 Q. It was all his -- it was all his stocks.

24 A. It was all his stocks, it was all his money. He was the
25 sole beneficiary of the Trust. He's the, you know, sole owner

1 of these LLCs, so it really is just one pocket and another
2 pocket.

3 Q. Okay. All right. Now, on the next page, we're still on
4 the same section, we're at BH000538, there's a discussion of a
5 loan facility that the Trust has at Merrill Lynch.

6 A. Yes.

7 Q. And -- and am I understanding correctly that the
8 discussion is that there's a \$50 million margin loan that's
9 outstanding, and the discussion is where to move that loan?
10 Is that right?

11 A. Right. So he borrowed from Merrill Lynch to -- or used
12 the proceeds from sales at Merrill Lynch --

13 Q. Okay.

14 A. -- to pay down HSBC.

15 Q. Oh, I see. Okay. And then the question is, are you
16 going to renew the loan facility at HSBC?

17 A. Yes, we were. But HSBC was getting really worried about
18 Gary's loan indebtedness overall.

19 Q. Okay.

20 A. And so they wanted, you know, them to lower -- Gary to
21 lower his indebtedness with them.

22 Q. Okay. And it says, Ms. Dokken--that's you--reported that
23 talks are ongoing with HSBC as to whether the Trust will renew
24 its loan facility. And I assume on what terms. Is that
25 right?

1 A. Well, correct. We were negotiating for more money,
2 trying to find a better release rate to be able -- so we were
3 talking to different banks. I don't think the intention was
4 at this point in time to leave HSBC, but to get them to change
5 their -- their ratios, their release ratios and their floors.

6 Q. This is the loan-to-value ratio.

7 A. Yes. Yes.

8 Q. Okay. And you -- you told the group that you were
9 negotiating not only with HSBC but also U.S. bank and Stanford
10 for a new loan facility. Is that right?

11 A. Yes.

12 Q. Okay. Now, there's an observation from Mr. Knudson that
13 one advantage of borrowing from Stanford would be the
14 possibility for legal offset in the event that the Trust's
15 significant investment in certificates of deposit in Antigua
16 were at risk. Do you recall that discussion?

17 A. Yes.

18 Q. What do you recall about that discussion?

19 A. Well, it's sort of like -- Stanford and Stanford
20 International Bank are like Gary and GMAG in a sense, that you
21 couldn't use the proceeds from one -- or maybe Gary and GMIT
22 might be better. You couldn't take the assets from one and
23 move them into the other very easily, nor could you -- unless
24 you actually guaranteed, you know, GMIT against GMAG or
25 whatever. It's not the same entity.

1 And so my observation, which I don't think is in here,
2 was that that probably wouldn't work because they were
3 different entities entirely, so that if Gary had money at
4 Stanford Bank and he had indebtedness at Stanford Brokerage,
5 those aren't offsetting entities in my -- in my opinion.

6 Q. Did you make any investigation or anybody else from Mango
7 Five make any investigation about whether it was possible to
8 secure a margin loan at Stanford?

9 A. Stanford wouldn't do it. They wouldn't give Gary the
10 marginability on the Stanford CDs.

11 Q. And in point of fact, if you were borrowing from
12 Stanford, you were really borrowing from Pershing. Isn't that
13 right?

14 A. Correct.

15 Q. Pershing wouldn't do it.

16 A. No.

17 Q. I guess the question, even before we get to whether
18 that's feasible, why the discussion of the certificates of
19 deposit in Antigua being at risk. How did that come up?

20 A. Well, I think 2007 was the beginning of the housing
21 demise, and things were -- I don't know, investments seemed
22 riskier than they had before the housing crisis. I think
23 everything kind of seemed more at risk when you -- when you
24 looked at it. But I don't know that anybody really thought
25 that they were at risk.

1 I truly -- this is what I think, and this is only what I
2 think. Steve and Tom were really good friends, and Steve was
3 always trying to steer things Tom's way. And we ended up
4 finding out later that Tom made commissions or cuts or
5 whatever on some of the investments. I don't know that --
6 that Steve knew that. I don't think he did, but I think he
7 was just trying to get more business to Tom, because Tom was
8 his friend and Tom would talk to him and tell him what was
9 going on.

10 Merrill Lynch, Ryan Bell, Mary Penn at HSBC, weren't as
11 eager to fill Steve in on certain aspects of Gary's
12 investments. So it was just -- you know, Steve would say,
13 yeah, let's go with Stanford because maybe this other reason
14 will pan out.

15 Q. Did anybody at the meeting tell Steve that they thought
16 the certificates of deposit in Antigua were not at risk in
17 response to his comment?

18 A. Oh, I don't think that was what the point -- that wasn't
19 the point.

20 Q. But did that -- but I'm --

21 A. No.

22 Q. Did anybody say that, they're not at risk?

23 A. No. No. Every -- anybody said you can't correlate the
24 two. You know, they're different entities. You're not -- you
25 know, this wouldn't -- this isn't a good reason.

1 Q. Did anybody say to Mr. Knudson in response to his comment
2 here that -- well, let me ask it a different way.

3 I mean, was the comment about the certificates of deposit
4 in particular being at risk just completely out of left field
5 from your perspective, or was that something that had been
6 discussed before?

7 A. I think it was completely out of risk -- I mean, out
8 of -- you know, not on the point of this discussion that we
9 were having here about borrowing facilities. So -- we were
10 discussing the possible banks and the interest rates
11 primarily, but more than that, the release, being able to get
12 a better release.

13 U.S. Bank, for example, had a \$10 floor, which, you know,
14 is -- was exceedingly high and very alarming with LINTA down
15 to like \$11 or whatever. So it was looking at getting out of
16 places where we would be able to get into places that had
17 better releases, you knows, higher ratios, that sort of thing.

18 Q. Okay. So by this point, that is, the board meeting
19 October 1st, 2007, did you have any awareness of people
20 internally at Mango Five Family talking about the risk --

21 A. No.

22 Q. -- associated with the Stanford International Bank CD?

23 A. I think that we probably talked about risk of things from
24 time to time, even, you know, I mean, overall exposure risk
25 for Gary's highly concentrated position. That was the main

1 risk that everybody saw at that point in time was that his
2 position was highly concentrated. And so if that industry
3 went down, it was going to take him out completely because he
4 didn't have any fallbacks, you know. He didn't have that
5 non-correlated investment to the market that, you know,
6 Stanford had, seemingly.

7 So we were more concerned about that as a risk than
8 pretty much anything else in Gary's life at that point in
9 time.

10 Q. Okay. Let's take a look at the investment committee
11 meeting minutes, Plaintiff's Exhibit 133. Now, this is the
12 meeting that would have taken place immediately after the
13 board meeting. Correct?

14 A. Yes.

15 Q. Okay. Are you at 133?

16 A. Yes.

17 Q. Okay. And actually it's -- the agenda is on the first
18 page, and then the next two pages are the minutes. Correct?

19 A. Yes.

20 Q. Okay. And at section 7, there's a discussion of some
21 miscellaneous items.

22 A. Yes.

23 Q. And it says that Mr. Magness -- Mr. Magness asked you to
24 request that Mr. Espy prepare a full report for the investment
25 committee's next meeting, discussing the status of the

1 certificate of deposit program in Antigua, and further
2 requested that you inquire of Mr. Wilk as to how the
3 certificate of deposit program could be further investigated.

4 Now, how did this discussion come about? Well, first,
5 let me ask you, do you recall that was the discussion?

6 A. I'm just trying to make sure this is the same -- the same
7 date. So this is the regular board meeting, and this is the
8 investment committee meeting.

9 Q. Right.

10 A. I'm sure that we just talked about -- we'd had this big
11 sell-off, you know, trying to reduce the debt. The debt was
12 really on everybody's mind, and so I'm sure that -- I'm sure
13 that at some -- I mean, oftentimes during the meetings we had
14 reports on Stanford, and that's when Tom actually came to the
15 meetings was when he was supposed to deliver whatever report
16 it was that he was delivering. So I imagine this is at the
17 time that Chuck Wilk is involved in the whole thing.

18 Q. So let me first ask you, is what's reflected at item 7 on
19 page BH000491, is that accurate as far as your recollection is
20 concerned about what happened at the meeting?

21 A. I'm sure it is. As -- as I mentioned earlier, as time
22 went on and we would have conversations with Juan at the bank
23 or Laura or whatever, they would say exactly the same things
24 that they said, you know, in 2002 or '5 or whenever it was.
25 And so they didn't say anything different, and that was what

1 as -- when time went on, that kind of made us concerned was
2 that they were still saying the same things, especially at
3 this point in time when there had been problems with the
4 market.

5 So the market problems were starting here. They just got
6 worse. And so I'm sure that that was -- was the impetus
7 behind wanting to have more information.

8 Q. Okay. And so as of October 1st, 2007, the investment
9 committee, and I assume you, are recognizing a need to do some
10 further investigation of Stanford International Bank --

11 A. Yes.

12 Q. -- because of the disconnect between what they were
13 saying and what you're observing in the market.

14 A. Correct.

15 Q. And it refers to Mr. Wilk conducting a further
16 investigation. Do you know what investigation proceeded
17 October 1st, 2007, by Mr. Wilk?

18 A. I don't think the sentence means that. I think further
19 investigation as in to looking into it, you know, kind of
20 thing. I don't think that it's saying that he should take it
21 farther than whatever investigation he had had before.

22 Q. Did you have a discussion with Mr. Wilk after the October
23 1st, 2007 meeting that you can recall?

24 A. I'm sure.

25 Q. Do you remember anything about it?

1 A. No.

2 Q. Do you know if you talked to him on the phone,
3 corresponded by email, or had some other form of
4 communication?

5 A. We talked on the phone a lot.

6 Q. Did you continue to talk to Mr. Wilk on a regular basis
7 throughout the remainder of this time period--that is, from
8 October 1st, 2007 to February 2009?

9 A. No. At some point it became unnecessary to talk to him
10 anymore about it.

11 Q. Well, not about Stanford, but just in general.

12 A. Oh. He -- I'm not exactly sure when he left Quellos, so
13 things in our relationship kind of changed.

14 Q. After he left Quellos?

15 A. Yes.

16 Q. Okay. Did he leave Quellos in connection with his
17 indictment by the Department of Justice?

18 A. I believe so. And then he went to jail. That hindered
19 our communication.

20 Q. Okay. Ms. Dokken, can you please take a look at
21 Plaintiff's Exhibit 71?

22 A. Yes.

23 Q. Now this is a Stanford International Bank market recap
24 and outlook covering the last quarter of 2007. Do you see
25 that?

1 A. Yes.

2 Q. Have you seen Plaintiff's Exhibit 71 before?

3 A. Not necessarily this particular issue, but I've seen a
4 quarterly update before.

5 Q. And a quarterly update from Stanford International Bank?

6 A. Yes.

7 Q. Okay. And in what context do you recall seeing one of
8 these quarterly reports?

9 A. They would arrive at our office, and we would -- you
10 know, we would read them --

11 Q. Okay.

12 A. -- or someone would email it to me or something.

13 Q. Would you make any study of them for any particular
14 reason?

15 A. Well, just as I would generally for all of investment
16 information that we had. This looks like the same thing, you
17 know. They're all over the place, and they're in everything.

18 Q. And you are alluding to the description of Mr.
19 Rodriguez-Tolentino and Ms. Holt -- sorry, Ms. Pendergest?

20 A. Yes. Exactly.

21 Q. Did you discuss any of these quarterly reports with Mr.
22 Magness or Mr. Espy?

23 A. I'm certain that we did at -- you know, and we talked
24 about Stanford often, I mean, probably at every board meeting.
25 We wouldn't necessarily talk about it in conjunction with a

1 quarterly report specifically, but this was -- I mean, this
2 was always the story basically of what they were telling
3 us--that they were in all kinds of different sectors, all
4 kinds of different places, all kinds of different currencies.

5 Q. And when you say this, you're referring to the four pie
6 charts that are on the last page of the exhibit?

7 A. Correct.

8 Q. So if you look at the product allocations, they're in a
9 mix of equity, meaning stocks, right, and fixed income,
10 meaning bonds --

11 A. Correct.

12 Q. -- and then metals, cash and equivalents, and alternative
13 investments?

14 A. Yes.

15 Q. Did you have an understanding of what alternative
16 investments referred to?

17 A. Well, I sort of thought that was like real estate kind of
18 things maybe or something like that.

19 Q. And how did you come to that understanding?

20 A. Because I knew that Allen -- I knew that Stanford owned
21 real estate holdings.

22 Q. And then on the currency allocations, it reflects 60
23 percent U.S. dollar and then 40 percent other.

24 A. Correct.

25 Q. Okay. And -- and these descriptions that you see at the

1 last page of Plaintiff's 71, that's consistent with what you
2 saw over time.

3 A. Yes.

4 Q. Okay. Even going back to the very first time you saw
5 anything about Stanford?

6 A. This was always what we understood it to be comprised of.

7 Q. We at the Magness entities?

8 A. Yes.

9 Q. Okay. All right. So I want to turn -- I want your
10 attention to Plaintiff's Exhibit 57. This is an email on
11 January 10th, 2008, from yourself to Tom Espy and Pamela
12 McGowan. Do I have that right?

13 A. Yes.

14 Q. Who is Pamela McGowan?

15 A. She was his assistant, Tom's assistant.

16 Q. So she worked for Stanford Group Company?

17 A. Yes.

18 Q. Okay. And it appears that here on January 10th, 2008,
19 you are asking to cash in your Stanford CD and to pay the
20 penalty associated therewith. Is that right?

21 A. Yes.

22 Q. And is that to make the Grand Lake investment that you
23 described earlier?

24 A. Yes.

25 Q. That is to purchase a piece of neighboring property?

1 A. Correct.

2 Q. When did you buy the piece of property that this was
3 adjoining to?

4 A. We bought it before this, but we just took out a loan and
5 we wanted to pay that off. We bought it maybe in December
6 of -- right before this, right before Christmas.

7 Q. Okay. And then you bought the adjoining property or the
8 neighboring property in December 2007?

9 A. Yes.

10 Q. And you did that with a loan?

11 A. We just borrowed on the -- on our margin at our -- at
12 Merrill. We have our stock at Merrill Lynch as well, so we
13 just borrowed on the margin. But I didn't believe in margins,
14 so I wanted to sell -- you know, to cash out the CD to be able
15 to pay for it.

16 Q. Why did you sequence it in steps like that? Why didn't
17 you simply cancel the Stanford CD back in November or December
18 of 2007?

19 A. Because it was year end and it's a really busy time or
20 was a really busy time, and my personal finances always fall
21 to the bottom when I'm working that hard. So after the first
22 of the year when all of the year-end transactions were done
23 and everything that needed to be done was done, then I could
24 figure out how to do it, you know, to have time to write the
25 letter and -- I didn't know how long this was going to take or

1 what this was going to entail.

2 Q. Did the decision to withdraw from Stanford International
3 Bank and retire your margin loan have anything to do with your
4 concern over the risk of the Stanford International Bank CD?

5 A. It was more just the timing of us wanting to buy this
6 property. As I mentioned before, I never expected that I was
7 going to be in the Stanford CD program for that long. So it
8 wasn't specifically that I was more or less concerned about
9 the risk associated with Stanford; it was just the timing of
10 needing the money.

11 Q. So the question is, if the mortgage rates were less than
12 the stated rate of the Stanford CD and you had to pay a
13 penalty to get the money out of Stanford, why did you opt to
14 pay the penalty and get out of Stanford rather than simply get
15 a secured loan from a bank?

16 A. Well, if you -- you really can't get a loan on
17 undeveloped property. They don't really like to loan on that.
18 They will only loan 50 percent of the value on your second
19 home to begin with. So -- so, you know -- but they
20 won't -- you can't just -- as far as I knew, know, get a loan
21 on a piece of property that has nothing on it and, you know,
22 that you're not building on or whatever.

23 So I don't think I ever even felt that it was an option
24 of, you know -- if it was the 50 percent thing, then that
25 would only have given me \$40,000 on the value anyway, and I

1 needed to -- you know, I wanted the whole thing.

2 Q. Okay. But if you had maintained the margin loan with
3 Merrill, that rate was lower than the stated rate of the
4 Stanford CD, was it not?

5 A. Yes.

6 Q. And the -- and part of getting the money out of Stanford
7 was paying the penalty to Stanford.

8 A. I didn't ever have to pay the penalty.

9 Q. Did they waive the penalty?

10 A. Yes.

11 Q. You were prepared the pay the penalty.

12 A. Yes. I just wanted to pay off my debt, my debts with
13 myself. I mean, with, you know -- the market was iffy at that
14 point in time, and I didn't know what was going to happen. So
15 I felt that it was, you know, it would be better for me not to
16 have any other debt other than my -- my mortgage debt. And I
17 thought that real estate was going to be a secure investment.
18 Not so much.

19 Q. And were you also influenced in the decision about how to
20 deal with the margin debt and Stanford by the discussion that
21 had been taking place just a couple of months prior about the
22 risk of Stanford and the need to do a further investigation of
23 Stanford?

24 A. I'm sure it might have influenced my decision to some
25 degree, but that wasn't the driving factor whatsoever. It

1 was, you know, this lot, building this house in Grand Lake.

2 Q. And did you have any discussion with Mr. Magness or Mr.
3 Espy about your decision -- well, obviously Mr. Espy, but with
4 Mr. Magness about your decision to sell your Stanford CD?

5 A. No.

6 Q. Was he aware that you had a Stanford CD?

7 A. Yes. But I don't know that I ever told him that I sold.
8 He was -- he felt that Stanford was a good investment and a
9 good interest rate return, and he continued believing that
10 until the end. So he wouldn't have ever wanted me to sell.

11 Q. Was that why you did not talk to him about selling it?

12 A. Oh, there's only so much you can argue with him about.
13 He argues about everything.

14 Q. Let me ask you about Plaintiff's Exhibit 56. It's in the
15 notebook in front of you. Do you recognize Plaintiff's
16 Exhibit 56?

17 A. Yes.

18 Q. And this is an email from you to Mr. Espy, dated February
19 5th, 2008, with a copy to Ray Sutton, Bob Armstrong, Steve
20 Knudson, and Mr. Magness. Correct?

21 A. Yes.

22 Q. Now, you're asking Mr. Espy for some information about
23 the Stanford Bank certificates of deposit. Right?

24 A. Yes.

25 Q. And the Mango Five investment committee, in your words,

1 would like to understand and review -- well, actually let me
2 take that back. It's signed by Mango Five Family, Inc.,
3 board of directors, and then your signature block is below
4 that. Who is this from?

5 A. I sent this out on behalf of the board.

6 Q. Okay.

7 A. But this is just my email thing that comes up on
8 everything.

9 Q. Okay. So "The Mango Five investment committee would like
10 to understand and review the strategies and investments that
11 the Stanford Bank certificates of deposit have exposure to so
12 that we can better understand the underlying assets."

13 Is that right?

14 A. Yes.

15 Q. Okay. Now, is this consistent with what you talked about
16 earlier, which is that you needed to gain an understanding --
17 a better understanding of how Stanford International Bank was
18 invested and how that could make money in the market
19 conditions you were seeing?

20 A. Exactly.

21 Q. Now, do you recall sending letters similar to this about
22 any other investments that the Magness entities were involved
23 with?

24 A. We sent similar emails to Quinlan, which was the European
25 real estate investment thing that we had 20-odd million

1 dollars in, that was a disaster, and the other -- some of the
2 other hedge funds that we had invested in, trying to find out
3 what was going on with them, had conference calls with the
4 Quinlan people for them to explain why their real estate
5 holdings were so upside down and how, you know, they were
6 never going to get their money back and they had all these
7 bank loans that came due and whatnot.

8 So Stanford wasn't necessarily singled out at this point
9 in time. We were looking at everything and trying to get a
10 feel for what it was, what it comprised, what sectors it was
11 in.

12 Q. Would you agree with me that Stanford stands out in the
13 board meeting minutes from 2007 through the time that Stanford
14 was taken over by the SEC?

15 A. Yes.

16 Q. And you asked for some materials to be prepared, so --
17 excuse me -- the board asks for some materials to be prepared
18 and sent to you for inclusion in the investment committee
19 package for the upcoming meeting. Right?

20 A. Correct.

21 Q. All right. So let's turn to -- turn to tab 60 or
22 Plaintiff's Exhibit 60. This is February 14th, 2008, about
23 nine days later. There is a discussion between -- or
24 involving Mr. Espy and Ms. McGowan and another person named
25 Misty Presley. Do you know who she is?

1 A. No.

2 Q. There's a reference to six SIB disclosure booklets for --
3 for use with Magness Trust board members. Do you recall
4 whether you received any SIB disclosure booklets from Mr. Espy
5 in connection with the meeting that was being planned in
6 February 2008?

7 A. So I didn't know what it was that he was bringing before
8 he went to the meeting, and I can't say positively that he
9 actually brought these with him or not.

10 Q. Will you take a look at Plaintiff's Exhibit 61, which is
11 the next one in your binder? And this is a disclosure
12 statement for the U.S. accredited investor certificate of
13 deposit program from Stanford International Bank.

14 Does this look familiar to you as one of the documents
15 that Mr. Espy brought to the spring -- or I guess late winter,
16 early spring 2008 investment committee meeting?

17 A. Yeah, I -- I imagine it probably is. He didn't bring as
18 much with him as I thought he would have.

19 Q. What do you recall him bringing with him?

20 A. Well, he just mostly talked as opposed to having
21 documentation that substantiated anything that he said.

22 Q. Was that a concern to you?

23 A. Well, how do I put this? Tom Espy was always a concern
24 to me from the very beginning.

25 Q. And why do you say that?

1 A. Because he just made it a point of always going to Gary
2 personally, meeting Gary at his house, getting Gary into
3 trouble with drinking and whatnot. And, you know, he just, I
4 felt, was a bad influence in Gary's life in general. So
5 anything that he did, I would be skeptical of.

6 Q. Okay. Well, so the board has made a rather pointed
7 request for information related to the Stanford International
8 Bank and asked for materials to be prepared in advance, and I
9 think what you're telling me is -- or, excuse me, given to you
10 in advance, and I think what you're telling me is he did not
11 do that.

12 A. He brought them to the meeting himself.

13 Q. All right. So he did not do as -- he did not comply with
14 the first request, which is to provide you with information in
15 advance of the meeting.

16 A. I don't remember that he did.

17 Q. And then the second problem is he came to the meeting
18 with limited materials. Were they responsive to what you had
19 requested on behalf of the board?

20 A. Well, I would have liked to have seen a complete
21 breakdown of what it was that they were invested in, you know.
22 Like if they were invested in equities, what were those? That
23 would -- that would have been what I would have wanted. So we
24 didn't get anything like that, that specific.

25 Q. And what was your sense, based on what you observed

1 through your interactions with the board, about what the board
2 was interested in seeing from Mr. Espy same as your --

3 A. I think they wanted the same thing. I mean, this was
4 during -- 2008 was the time when the market was, you know,
5 really starting to fall apart and was -- you know, the market
6 in general seemed very risky, anything having to do with the
7 market. So every investment was under scrutiny and we were
8 concerned about it.

9 So we wanted people to be more responsive to us. And in
10 many cases they were, you know. Quinlan gave us a list of
11 every single holding that they had and what the debt was
12 against it and that sort of thing. And so we wished that we
13 could have had something more.

14 But they said that for them to disclose anything more was
15 to disclose their strategy, their investment strategy, and
16 they weren't going to do that because that was their bread and
17 butter, you know, their individual strategies involved in all
18 of this.

19 Q. Was that a concern to you that they were not disclosing
20 the kinds of things they were invested in?

21 A. Yes, but I'm -- I'm generally unhappy about a lot of
22 those sorts of things. Let's put it that way.

23 Q. But Stanford stood out against the other investments that
24 Magness entities were in by refusing to disclose --

25 A. Only because it was --

1 Q. -- information?

2 A. And because it was bigger.

3 Q. It was bigger and you had less visibility.

4 A. Right.

5 Q. Please take a look at Plaintiff's Exhibit 62, which are
6 the minutes of the meeting of the Mango Five Family investment
7 committee on March 6, 2008. So I gather this meeting spilled
8 over into March rather than happening in February. Is that
9 right?

10 A. Yes.

11 Q. And there's a report on Stanford certificates of deposit
12 at the top of page 2. Do you see that?

13 A. Yes.

14 Q. And Mr. Rodriguez appeared by phone at this meeting?

15 A. Correct.

16 Q. And he was asked to report on the safety of the Trust
17 certificates of deposit. Correct?

18 A. Yes.

19 Q. And he was asked to report on the safety because there
20 had been concerns about the risks to the CD. Is that right?

21 A. Yes.

22 Q. And it says, Mr. Rodriguez spent a few minutes discussing
23 the nature of the bank, which resembles a, quote, Swiss bank
24 model, end quote. Do you know what that means?

25 A. No.

1 Q. Was there any discussion or questioning of Mr. Rodriguez
2 about what a Swiss bank model is?

3 A. Possibly.

4 Q. Do you remember any?

5 A. No.

6 Q. And then it says Mr. Rodriguez also explained the
7 regulatory oversight of the bank in the country of Antigua.
8 Do you recall what he said about that?

9 A. That they were audited regularly, there was oversight
10 with the Antiguan banking commission or something or other.

11 Q. Did anybody ask him any questions about that?

12 A. I think a lot of people asked a lot of questions. I
13 don't specifically remember the individual questions that were
14 asked.

15 Q. All right. And the next paragraph, it refers to Mr.
16 Rodriguez being asked about how Stanford International Bank
17 differs from a hedge fund, and he said it was different
18 because the bank has regulatory oversight. Does that sound
19 right?

20 A. Yes.

21 Q. And do you have any understanding of why that would
22 explain how the bank can perform well in a down market given
23 its investment portfolio?

24 A. No. I think it just -- I think that what we took it to
25 mean was that they had certain liquidity requirements that

1 they were -- needed to be met, and that that made it safer
2 because of that regulatory oversight than a hedge fund, which
3 can just go to zero in an instant, because they were, you
4 know, required to have certain things --

5 Q. So --

6 A. -- because they were a bank.

7 Q. -- because of the liquidity requirement, it can't go all
8 the way to zero but certainly it could go down. And if it
9 had -- if it was -- had too small of a margin between assets
10 and liabilities, they could be insolvent, right, even if it's
11 not zero?

12 A. But I'm certain that he explained why that would never
13 happen or come to pass or how -- the precautions they had in
14 place about that sort of thing.

15 Q. Do you remember what he said about that specifically?

16 A. No. I do feel that we were all reassured, though, after
17 this particular meeting.

18 Q. And reassured by what exactly?

19 A. That they were doing things correctly, that they weren't
20 a hedge fund. I think we were all concerned that they were a
21 hedge fund. That was one of the concerns, because many of
22 those hedge funds, Tontine in particular, had gone to zero
23 that Gary had been invested in.

24 Q. What do you -- what do you recall that he said about the
25 capital requirement?

1 A. I don't remember specifically.

2 Q. But the difference between hedge fund and Stanford is
3 Stanford can go down 20 percent but nevertheless still has to
4 pay its eight, nine, ten percent to its investors, doesn't it?

5 A. Yes.

6 Q. Isn't that kind of a recipe for disaster in a down
7 market?

8 A. Well, keep in mind, though, they were invested in all
9 nonmarket correlated things, and they were in China, and they
10 were wherever, and that was the whole key to their success,
11 that they could be in this situation that nobody else was in
12 because they were so strategic and smart and their --

13 Q. Even though -- I'm sorry.

14 A. -- their individual -- so they had all these individual
15 money managers that were working for them in whatever these
16 locations were, and they were the most brilliant people in the
17 world, and that sort of thing.

18 Q. Even though 60 percent of their investments, as you saw
19 from the materials they sent you, were in U.S. denominated
20 investments. Right?

21 A. Yes.

22 Q. Plaintiff's Exhibit 72, can you please turn to that?
23 This is a Stanford International Bank quarterly update from
24 the third quarter of 2008. Do you recall seeing this one in
25 particular?

1 A. I don't know. They were similar to each other. So I
2 don't remember seeing this one specifically, but I most likely
3 did.

4 Q. Okay. Do you recall any discussion within the Magness
5 group about how Stanford could be invested in the kind of
6 portfolio allocation described in the last page of the exhibit
7 but not be exposed to the kinds of market losses that are
8 reflected by the index returns listed on that page?

9 A. Well, our -- our concentration really at this point in
10 time at the end of September here was in an entirely different
11 direction because the markets in general were melting down and
12 the margin calls, the daily margin, calls were happening.

13 And so we were focused completely on trying to figure out
14 what to sell, how to cover, what to transfer, what to do, how
15 to get money to cover the margins. We actually had soft music
16 and lavender candles playing in our office at this time
17 because it was so stressful.

18 So any individual report like this was probably not
19 something I was concentrating on. I was working 12 hours a
20 day with the banks trying to keep Gary from being sold out.

21 Q. But the Stanford investment at this point is
22 approximately \$100 million. Right?

23 A. Correct.

24 Q. And that's as of end of September 2008. That's got to be
25 what, one-seventh of Mr. Magness' net worth?

1 A. Yes. But our -- our dealings I think at that point in
2 time was -- was borrowing, was making the loans on the CDs to
3 be able to get the money to pay down margin calls.

4 Q. Right. But my point is or my question is, the safety and
5 the security of something that is now become one-seventh of
6 Mr. Magness' net worth surely was still on your mind.

7 A. Well, not when they gave us 80 percent. I mean, when we
8 wanted 80 percent, they gave us 80 percent, and so we were
9 able to get, you know, much of the money out. That was very
10 reassuring that they had that money to be able to send -- they
11 wired it immediately when -- when we requested it.

12 So we were able to use that money to pay down the other
13 margins or whatever. So that didn't become our focus anymore,
14 this viability of Stanford. It was whether or not Gary was
15 going to actually make it through.

16 Q. Right.

17 A. I mean, at one point it looked like he was going to go to
18 zero.

19 Q. But once you -- understanding once you got \$88 million
20 out of Stanford International Bank, the risk profile
21 associated with that necessarily reduced dollar for dollar.
22 My question is, before you did that, surely that continued to
23 be a focus of the Magness group, is this a safe place for our
24 money?

25 A. Well, I think that we got the money out at this period in

1 time, the \$80 million, the 80-odd million.

2 Q. Prior to getting it out, my question is, did it continue
3 to be a concern, the safety and security of the Stanford
4 International Bank investment, in which you had \$100 million?

5 A. Well, it was a concern up until the point where he got
6 the money out, but they always had assured him that he would
7 be able to get his money out, that that was never going to be
8 an issue if he wanted it, and he really felt it was important
9 to have that interest rate in place.

10 So he wasn't interested in getting rid of the Stanford
11 CDs because he wanted to preserve the interest rate so that he
12 could continue having that investment, you know,
13 income-generating investment. So he wanted -- so when he
14 borrowed against the CDs, he paid interest on the money that
15 he borrowed against the CDs, and he continued to earn interest
16 on the CDs.

17 So that money that he borrowed was at, you know, kind of
18 the same rate that he was borrowing from other places. It was
19 just kind of moving the money around between who needed it the
20 most.

21 Q. But when he got it out of the bank in Antigua -- well,
22 let me -- let me come back to that.

23 In October 1st 2008, there was an investment committee
24 meeting again of the Mango Five Family, yes? Can you please
25 take a look at Plaintiff's Exhibit 73?

1 Is Plaintiff's Exhibit 73 the October 1st, 2008 minutes
2 of the investment committee of Mango Five Family?

3 A. Yes.

4 Q. Now, at -- at point No. 6, it says, "Report on Stanford
5 Certificates of Deposit," and it says, "GMIT continues to hold
6 the Stanford certificates of deposit, and there have been no
7 redemptions of certificates of deposit during the reporting
8 period." Do you see that?

9 A. Yes.

10 Q. And it doesn't say anything else about the certificates
11 of deposit in these minutes. Right?

12 A. Correct. That's because there were way more pressing
13 issues to be talked about at that point in time. In here we
14 were talking about seeing if we could sell the water rights,
15 for example. So it was really trying to figure out how to
16 come up with -- with money.

17 Q. Let me show you Plaintiff's Exhibit 164. This is an
18 email exchange between you and Ray Sutton on October 2nd,
19 2008. I'm assuming most of it is blocked out because Mr.
20 Sutton is an attorney, but I want to ask you about the part
21 that's not blacked out.

22 In your email to Mr. Sutton, on the morning of Thursday
23 October 2nd, you said, "Gary was pleased with the meeting yet
24 and so was I. I was especially relieved that he agreed to at
25 least take out the interest accrual portion of the SIB notes

1 when they mature. I've been hammering on that point and it
2 seems it finally hit home."

3 Now, that was discussed in one of the meetings with the
4 Mango Five Family the day before?

5 A. Well, I talked to him about it all the time, that he was
6 letting the interest ride. So he was just accruing the
7 interest and not receiving the interest. So he really was not
8 making the -- the arbitrage, you know, the difference between
9 the loan pay -- the pay-down of the margin loans that he
10 borrowed the money against and the money that he was receiving
11 from Stanford, because he wasn't taking it out.

12 And so I -- I said the only way that this even makes
13 sense is if you realize that income so that you can use it and
14 take it out and, you know, get out what interest has already
15 accrued to date so we can pay down certain lines of credit and
16 then continue taking it out as time went on.

17 Q. But my question is, was the decision to take out the
18 interest accrual portion, was that discussed during the
19 meeting, or was it a conversation that took place outside the
20 meeting?

21 A. Both.

22 Q. So it was discussed in the meeting?

23 A. I think. I'm not sure, but it could have not been
24 discussed in the meeting.

25 Q. And I take it it was a -- it was a -- excuse me -- it was

1 of significance to you because you say you were especially
2 relieved about it. My question is, why wasn't it in the
3 meeting minutes?

4 A. Because many of the meeting -- much of the meeting took
5 place in the bar after the meeting, so we would then sit down
6 and talk about what transpired or whatever, and -- and it
7 would just be like Gary and Ray and I or whoever, you know.
8 And then we -- Gary would have had time to think about what it
9 was that he said or whatever, and then he would agree to
10 proposals later or at breakfast the next morning. So these
11 things would happen not necessarily during the scope of the
12 meeting, but there was a lot of things that were decided after
13 the meeting.

14 Q. So -- but this one was discussed during the meeting, and
15 it was decided after the meeting is what I hear you saying.
16 Is that right?

17 A. I don't remember.

18 Q. And so just to take your example --

19 A. It could have happened on the -- on his airplane on the
20 way back.

21 Q. Okay. So the meeting could have taken place on the 1st,
22 you adjourn the meeting, and then there's a follow-up
23 discussion among some group or subgroup during which it's
24 decided, for example, that he would take out of the interest
25 part of the Stanford CD. Right?

1 A. Yes. At this time he had huge, huge expenses other than
2 the margin debt. He was making a movie that had -- and
3 Fortrust had a lot of capital requirements, so there was a lot
4 of money going out, and I was really concerned about what it
5 was that we were going to do about that.

6 Q. And what --

7 A. And once I threatened to open the plane doors and, you
8 know, jump if he didn't do something or other -- I can get
9 rather dramatic.

10 Q. So in October -- if you will turn to page -- I'm sorry,
11 Plaintiff's Exhibit 80, please. Do you have one?

12 A. Yes.

13 Q. So on the 10th, as reflected in Plaintiff's Exhibit 80,
14 Mr. Magness took out a \$25 million loan from Stanford
15 International Bank. Right?

16 A. Yes.

17 Q. And he assigned certain -- or he assigned the deposits of
18 the Trust to get that loan from Stanford. Right?

19 A. I don't know. This one was always really confusing
20 because he signed one as himself and then he signed as the
21 Trust, so this was cleared up later in the subsequent loans
22 that were taken out. This one was just kind of a general one.
23 We needed the money desperately that very day, and so they
24 said, okay, we'll wire you the money; sign this; we'll fix it
25 later.

1 Q. Ms. Dokken, I've handed you Plaintiff's Exhibit 166,
2 which is an email from you to Beverly Jacobs. Do you see
3 that?

4 A. Yes.

5 Q. And Beverly Jacobs is an employee at Stanford
6 International Bank. Is that your understanding?

7 A. Yes.

8 Q. And you're telling Ms. Jacobs that the proceeds of the
9 loan that you-all were from Stanford International Bank will
10 be used to pay down a loan at U.S. Bank. Did I read that
11 correctly?

12 A. Correct.

13 Q. And then U.S. Bank is going to release some collateral
14 which you-all will sell the underlying stock and use the
15 proceeds to repay Stanford's loan. Is that right?

16 A. Yes. That was the plan. It didn't work that way.

17 Q. And why didn't it work that way?

18 A. Because the markets kept going down. So we broke the \$10
19 floor at U.S. Bank, and we had to pay off the margin there to
20 be able to get them to release all of the collateral, which
21 was double, you know. So then we had to -- rather than being
22 able to do something with that collateral, we had to send it
23 to other banks, and then they eventually sold it --

24 Q. Excuse me.

25 A. -- much of it in the ensuing days after this. So every

1 day after this just got worse and worse.

2 Q. Did you literally break the \$10 floor that day on Friday,
3 October 10th?

4 A. If it wasn't that day, it was -- I mean, yes, it was.
5 That was the desperation day. It was LINTA. LINTA went below
6 \$10. You could look up whenever that happened, but it was
7 right around here.

8 Q. And, ultimately, rather than repaying Stanford
9 International Bank --

10 A. We needed more money from them.

11 Q. -- you used the accumulated interest within Stanford to
12 repay that first loan. Correct?

13 A. And we had to wire them \$759,000, which was very hard to
14 come by.

15 Q. And if you look at Plaintiff's Exhibit 81, the
16 transaction, this -- Plaintiff's Exhibit 81 reflects the
17 transactions where the interest from other accounts were used
18 to repay all but \$700,000 of that loan. Correct?

19 A. Yes.

20 Q. And that happened on October 14th, which I gather is
21 Tuesday following your email. Correct?

22 A. Yes.

23 Q. And then if you look at Plaintiff's 84, 85, and 86, these
24 reflect three additional loans beyond the 25, for a total of
25 63.2. Correct?

1 A. Yes.

2 Q. So 63.2, plus the original 25, is 88.2. And that all
3 came out of Stanford International Bank in October of 2008.

4 A. Correct.

5 Q. All right. So I'm handing you Plaintiff's Exhibit 171.
6 And this is an email exchange between you and Pamela McGowan
7 at Stanford. Right?

8 A. Yes.

9 Q. And your email to Ms. McGowan starts on the bottom of the
10 page, and on October 23rd, you say to Ms. McGowan, "I'm
11 plotting how best to spend the \$44 million that's coming in
12 tomorrow. It looks like the Gary account might be close to a
13 margin call. Can you give me specifics on Gary and GMAG when
14 you get a chance?"

15 Is that right?

16 A. Yes.

17 Q. "Also I'm planning to send \$2 million to pay down Magness
18 Securities." And then she gives you -- she responds with some
19 information about positions in an account. Right?

20 A. Yes.

21 Q. And those are at Pershing?

22 A. Yes.

23 Q. Okay. All right. If you could look back in the
24 notebook, please, at Plaintiff's Exhibit 88. You'll see a
25 Merrill Lynch report for a GMAG nonpurpose loan account. Do

1 you recognize that?

2 A. Yes.

3 Q. And it reflects that there is a net cash flow in this
4 period of \$12 million. That is the period ending October
5 31st, 2008. And if you'll turn to page 5 of the exhibit, that
6 comes in the form of a wire transfer in. Do you see that?

7 A. Yes.

8 Q. And then on page 5 also we see the purchase of a money
9 fund, a Merrill Lynch government fund, for \$12 million on
10 October 24th. Am I reading that right?

11 A. Yes.

12 Q. Okay. So the GMAG loan that came out, as reflected in
13 Plaintiff's Exhibit 85, of \$12 million, was that intended to
14 be used to purchase a Merrill Lynch government fund?

15 A. Well, it was just parking the cash there basically, so
16 that's what we did was we put the cash there awaiting further
17 margin calls so we would know where it is that we should
18 transfer it to.

19 Q. So at that particular time he did not have a margin call
20 associated with this \$12 million that was pending.

21 A. No, not with that particular \$12 million. This was a
22 separate account altogether.

23 Q. And why did you put it in the government fund as opposed
24 to a money market or something else?

25 A. Because it was the most "cash-in-able." It could be

1 wired out instantly.

2 Q. You're saying this particular government fund did not
3 require a hold period of --

4 A. Yes.

5 Q. -- any time.

6 A. Any time.

7 Q. So it was --

8 A. So it was basically put here to be able to use to pay
9 margin calls in other -- other places.

10 Q. And who brought this particular opportunity to your
11 attention?

12 A. It wasn't an opportunity. It was just a place to put
13 money temporarily.

14 Q. Well, I understand. But, I mean, who suggested Merrill
15 Lynch -- this particular Merrill Lynch government fund as
16 opposed to anything else in the world?

17 A. They were then -- at that point in time, Merrill Lynch
18 was cooperating with us, and no one else was. HSBC was
19 selling us out. Our relationship with U.S. Bank had
20 terminated completely, I think, by that point in time. But
21 Merrill went above and beyond to try to lower the floor and
22 extend as much as they possibly could, so we wanted to park
23 the funds there while we figured out what to do with them.

24 Q. And the person you worked with at Merrill was Ryan Bell.
25 Correct?

1 A. Yes.

2 Q. Plaintiff's Exhibit 90, could you please take a look at
3 that. It should be in your notebook. Is Plaintiff's Exhibit
4 90 a document you created?

5 A. Yes.

6 Q. And the name of the file that's is running along the
7 right side of the page, that reflects this is coming from the
8 P drive of the Magness Investment Group?

9 A. Yes.

10 Q. And you -- I take it what you're doing here is analyzing
11 where the proceeds came from that were used to pay down margin
12 loans during October 2008. Is that right?

13 A. Well, it wasn't even that. It was what the margin loans
14 were at the beginning of the month, what we were able to use
15 to pay down some of them, and where the margin still was at
16 the end of the month.

17 Q. Right. And so on -- what's reflected here is as of the
18 10th, \$81 million is being used to pay down margin from
19 Stanford International Bank, and as of the end of the month 77
20 million is coming from the sale of securities. Correct?

21 A. Yes.

22 Q. So it was roughly 50/50.

23 A. Yes. These were forced sales.

24 Q. In other words, the bank took it? Yes?

25 A. Yes. The bank initiated it and the bank took it. Banks.

1 Q. All right. And please take a look at Plaintiff's Exhibit
2 92. Plaintiff's Exhibit 92 is a meeting of the
3 investment -- minutes of a meeting of the investment committee
4 of the Mango Five Family on December 5th, 2008. Correct?

5 A. Correct.

6 Q. Now, on page 2 of the exhibit, the first page of the
7 minutes, there's a report on the Stanford certificates of
8 deposit. Yes?

9 A. Yes.

10 Q. And it says, "Mr. Espy reported that he had approached
11 Stanford International Bank after the October 1st meeting
12 regarding the redemption of Mr. Magness and GMIT certificates
13 of deposit and that redemption would not be possible at this
14 time." Is that right?

15 A. Yes.

16 Q. And was that the discussion at the meeting on December
17 5th?

18 A. Correct.

19 Q. And then it says, "Mr. Magness inquired how his risk
20 could be reduced to the exposure of these certificates of
21 deposit." Do you recall that discussion?

22 A. Yes. This was shortly after the -- the Madoff disaster
23 happened.

24 Q. Well, Mr. Madoff was arrested on December 11th, 2008, was
25 he not?

1 A. Oh. Well, it was at the bleakest of times, and we no
2 longer had faith in anything, and Mr. Magness was finally
3 thinking that he wanted to get out of it.

4 Q. Of course, it reflects that "Mr. Espy approached Stanford
5 International Bank after the October 1st meeting and was told
6 he could not get out of the CDs at that time." That's what
7 the minutes say.

8 A. Yes, but that he could take loans against them.

9 Q. Right. And, in fact, Mr. Espy responded to the comment
10 about risk by saying that money was borrowed against the
11 bank -- or from the bank against the certificates of deposit
12 up to the amount you described, the 80 percent. Right?

13 A. Yes.

14 Q. Okay. And you recall that discussion happening at the
15 meeting on December 5th.

16 A. Yes. And we were all reassured by the fact we were able
17 to get out that 80 percent, but Gary was still in a very bad
18 financial position and really needed the rest of the money
19 still.

20 Q. Okay. And then on Plaintiff's Exhibit 98, if you could
21 please turn to that, there is a letter signed by Steve Knudson
22 to Mr. Juan Rodriguez-Tolentino, asking certain pointed
23 questions about this SIBL portfolio. Correct?

24 A. Correct. So this is the post-Madoff time frame now, and
25 everybody's very concerned about what's happening.

1 Q. And I gather a couple of weeks after this letter on
2 January 13th, 2009, there was a conference call involving Mr.
3 Juan Rodriguez-Tolentino and Ms. Pendergest?

4 A. Correct. And, coincidentally, they said the same exact
5 things that they had always said.

6 Q. The things they had said at the first meeting and at the
7 subsequent following meetings?

8 A. Yes. And we hung up the phone and said, you know, this
9 is crazy.

10 Q. Please take a look at Plaintiff's Exhibit 106. This is
11 an email from you to Steve Knudson, dated February 12th, 2009,
12 and you say to Mr. -- Well, it's addressed to Gary and Steve.
13 Was Gary BCCed or did he just get left off of this one or do
14 you know?

15 A. Well, I don't know.

16 Q. Okay. And it says, "Stanford has hit the major
17 publications now. These are articles from Bloomberg and
18 BusinessWeek about the SEC investigation and potential Ponzi
19 scheme."

20 A. And I believe by this time, we'd asked them for the rest
21 of our money and they said no --

22 Q. Okay.

23 A. -- officially.

24 Q. Where did you come up with the use of the term "Ponzi
25 scheme" in the context of Stanford as of February 12th, 2009?

1 A. It was probably in these articles, I would think, which
2 were probably forwarded to me from someone.

3 Q. Plaintiff's Exhibit 107, I'll just tell you, is -- well,
4 let's see. 107 and Plaintiff's 108, these are two articles
5 that were in the production from the Magness side to our side
6 in this case. Are these the articles that you recall seeing
7 and then forwarding to Mr. Knudson?

8 A. Yes, I imagine so.

9 Q. Are you aware at this time it would be another five days
10 before the SEC's lawsuit against Mr. Stanford was filed?

11 A. I don't know what the actual timeline was. I just know
12 it was around this time.

13 Q. When was the first time anybody within the Magness
14 organization referred to Stanford as a possible Ponzi scheme?

15 A. Oh, certainly not until 2009.

16 Q. But before the SEC filed its lawsuit obviously. Yes?

17 A. Well, I don't know that we ever actually did, but other
18 people, other advisors, were saying, you know, Madoff was a
19 Ponzi scheme, could Stanford be a Ponzi scheme? That was
20 really the first time Ponzi ever came into our lexicon.

21 Q. And it came into your lexicon before the SEC filed its
22 lawsuit.

23 A. Right, because we tried to get the money out, I believe,
24 in January.

25 Q. Plaintiff's Exhibit 109, will you please take a look at

1 that? This is an email exchange. The top email is an email
2 from you to Mr. Espy on February 12th, 2009. Correct?

3 A. Uh-huh.

4 Q. Is that yes?

5 A. Yes.

6 Q. And you're forwarding an email from Ryan Bell, dated
7 February 12th, 2009, in the afternoon. Is that right?

8 A. Correct.

9 Q. Mr. Bell says, "Just got to Mexico and my hotel, but saw
10 this email and wanted to forward. I think we all had this
11 fear unfortunately. I hope it wasn't a Ponzi scheme and
12 hopefully the money is somewhere."

13 Did you ever discuss with Mr. Bell that Stanford
14 might have been a Ponzi scheme prior to February 12th, 2009?

15 A. No.

16 Q. Did you ever discuss with Mr. Bell prior to February
17 12th, 2009, that Stanford might be too good to be true?

18 A. Oh, certainly when they wouldn't give us our money back.
19 But he was very involved in the loan process or whatever
20 because he was the recipient of a lot of the proceeds.

21 Q. But Mr. Bell, going all the way back to 2004 and 2005,
22 was trying to convince you and others within the Magness Group
23 that you should have your money with him and not with
24 Stanford. Right?

25 A. Well, that's the role of every broker, though. It wasn't

1 Stanford specific. It was do business with me specific.

2 Q. Right. But if he had concerns and legitimate arguments
3 why you should be out of Stanford, I'm sure he would have
4 shared those with you because he was trying to get your money.

5 A. Correct.

6 Q. Okay.

7 A. But there were no smoking guns per se that, you
8 know -- he sent me these articles during this time frame when
9 it was all kind of people found out about it in Venezuela
10 first, it seemed like. They were trying to get their money
11 out and they couldn't, so he would send me articles about what
12 was happening in Venezuela --

13 Q. Right.

14 A. -- in those countries.

15 Q. But the people -- so people like Mr. Bell and Ms. Penn
16 and the Erics at U.S. Bank, they all had every incentive to
17 share with you at the Magness organization bad news about
18 Stanford because that would mean you would be more likely to
19 move away from Stanford and towards them?

20 A. Yes.

21 Q. Their financial incentives were aligned with moving away
22 from Stanford?

23 A. Correct, but they never had any documentation or anything
24 that ever said anything, and they, you know, only suggested,
25 you know, once or something that we go with them and they

1 would do something for us. It wasn't persistent. It wasn't
2 ongoing. We didn't have ongoing conversations about it.

3 The ongoing conversations, especially at this point in
4 time, was, you know, how much stock is left, how much debt is
5 left, what, you know -- and we left U.S. bank entirely at that
6 time because they were -- they wouldn't help us out whatsoever
7 in any capacity.

8 Q. Ms. Dokken, I'd like to start with a little bit of
9 background information. In terms of today's event, you and I
10 have talked some on a number of occasions about the -- the
11 scheduling and the location of today's event, have we not?

12 A. Yes.

13 Q. Have we talked about the substance of any of your
14 testimony at any point in time since you left your employ at
15 Magness Investment Group?

16 A. No.

17 Q. I thought we'd skip that because you said I can't ask
18 about your birthday.

19 I'd like to go back and talk to you some about your
20 purchase of the CD.

21 A. Yes.

22 Q. And I -- I believe you told Mr. Powers that you purchased
23 that shortly after the presentation that you referred to as a
24 dog-and-pony show.

25 A. Yes.

1 Q. And at the point in time you made that investment, was
2 \$100,000 -- that was the amount you invested. Right?

3 A. Yes.

4 Q. Was that a significant amount of money to you?

5 A. Yes.

6 Q. Did you have any inkling that you were somehow putting
7 your hundred thousand dollars into an investment that was a
8 fraudulent scheme?

9 A. None whatsoever.

10 Q. At the point in time you made that investment, you -- I
11 believe you told Mr. Powers that one of the reasons you did so
12 was because there was a good interest rate.

13 A. Correct.

14 Q. Was that interest rate one you looked at, you thought,
15 gee whiz, this rate has to be too good to be true?

16 A. No.

17 Q. In the, what you referred to as the dog-and-pony show,
18 was there any discussion of the specifics of the investments
19 that Stanford was making that was any more than the sort of
20 pie chart presentations that you discussed with Mr. Powers?

21 A. No, but they were more verbose about it. They, you know,
22 were able to put together a very exciting presentation about
23 how the risk was covered through all of these different
24 things.

25 Q. And what did they -- if you recall, what did they tell

1 you about how the risk was covered through these things?

2 A. Oh, the noncorrelation to the market, that they were in
3 all of these different things, that if one went up, the other
4 would -- you know, wouldn't necessarily go up. If one went
5 down, the other wouldn't necessarily go down. And because
6 they had these specific money managers in all of these areas,
7 that they were -- you know, had the pulse of the market and
8 that sort of thing. So it was a very believable, dynamic
9 presentation.

10 Q. Did they tell you who these various money managers were?

11 A. No.

12 Q. Did you ask?

13 A. We asked if we could know, and they said that that was
14 part of their strategy; you know, that they, you know, were
15 sort of proprietary secrets or whatever.

16 Q. Did that alarm you at all when they said that this part
17 of our strategy, part of our proprietary secrets?

18 A. No, because it's that way with a lot of investments.

19 Q. During the, again, what you've referred to as the
20 dog-and-pony show, was there any discussion at that point in
21 time about what sort of regulatory environment the Stanford
22 International Bank did or did not operate under?

23 A. Well, we knew that it was regularly audited and regulated
24 by the banking authorities, so there was regulation to some
25 degree that they discussed.

1 Q. Did they talk about who was doing those regular audits
2 during the dog-and-pony show, once again?

3 A. I don't know that they mentioned a specific company; just
4 that there was, you know, a recognized auditor.

5 Q. What do you mean a recognized auditor?

6 A. Well, certified, I guess is what I'm, you know, looking
7 for.

8 Q. At some point in time, did you learn who the auditor was
9 for the Stanford International Bank?

10 A. Yes, but I'm not sure that I learned that before or after
11 the demise.

12 Q. Do you remember the context in which you learned that?
13 It might help us put a time frame on it.

14 A. Well, there were audited financials that came through as
15 part of the reports or whatever, and the name of the auditing
16 company may have been on those.

17 Q. Did -- when you -- did you look at the audited financials
18 that would come through on some of the reports?

19 A. Yes.

20 Q. Did you ever -- did the identity of the auditor, if it
21 was contained in those reports, ever cause you any concerns
22 about the money that you'd invested?

23 A. No.

24 Q. Are you aware of anyone else in the group of Magness
25 investment committee, either members or advisors, who ever

1 expressed any concern about the auditor who was working on the
2 Stanford International Bank?

3 A. No.

4 Q. Was there -- again, back to the dog-and-pony show since
5 that's the basis for your personal investment, at that point
6 in time was there any discussion of this concept of a Swiss
7 bank model?

8 A. No.

9 Q. Was there any discussion at that point in time of whether
10 the Stanford International Bank engaged in commercial lending
11 of any sort?

12 A. I don't recall that being part of the conversation.

13 Q. In the dog-and-pony show, was there any discussion that
14 compared the proposed rates that Stanford was talking about
15 during that presentation and rates from U.S. financial
16 institutions?

17 A. Yes.

18 Q. Was there any discussion of how it was that Stanford
19 could offer the higher rate?

20 A. Because of their brilliant money managers, that they did
21 things differently, that they were able to get higher yields
22 on their investments.

23 Q. Now, you in explaining your background to Mr. Powers told
24 us that essentially you were working for Mr. Magness for well
25 over two decades. Did I do the arithmetic right there?

1 A. Yes.

2 Q. And over that period of time, did you find that because
3 of the large sums of money that he had to deposit or to
4 invest, that he would get better terms than say, for example,
5 someone like you or me with significantly lower amounts of
6 money would have?

7 A. Oh, absolutely. He got better terms on everything. He
8 paid lower interest rates than mankind in general, made more
9 money on his investments. He got a lot of preferential
10 treatment because he was a billionaire.

11 Q. And in your at least two decades of experience with Mr.
12 Magness, did he generally try and adhere to those two
13 principles from his father?

14 A. Absolutely.

15 Q. There was some discussion in the minutes that you looked
16 at with Mr. Powers about Mr. Espy preparing an asset
17 allocation model. Do you remember saying that?

18 A. Correct.

19 Q. Did he ever present one?

20 A. Well, not what I would consider to be an appropriate
21 asset allocation model. It was probably drawn on paper as
22 opposed to on Excel or something.

23 Q. Why don't we start then, I'll ask you, what would you
24 consider an appropriate -- in that time frame obviously, not
25 today, but when you were an advisor to the investment

1 committee participating in these meetings, what would you have
2 considered an appropriate asset allocation model?

3 A. Well, it would have had charts and graphs and, you know,
4 pie charts probably or whatever of what the appropriate -- or
5 what the accepted asset allocation was or what the recommended
6 asset allocation was between cash and stocks and bonds and
7 other sorts of things. And his didn't include that much
8 detail.

9 Q. And did anyone follow up with him to say, Mr. Espy, what
10 you've presented is not fulsome or a complete asset allocation
11 model or something to that effect?

12 A. Well, I'm certain that someone other than me said
13 something about it, but it's important to recognize the fact
14 that Gary is the head of the investment committee solely.
15 He's the one who makes all of the decisions, and Tom was a
16 very good friend of his. So it was unwise to disparage Tom in
17 front of Gary without -- and you could do it in a certain way,
18 but then Gary would just get -- would just tune it out and
19 wouldn't listen to you anymore. So you had to be very careful
20 to pick your battles.

21 Q. Was there -- in the course of the review of the very
22 investments that were involved in Mr. Magness' portfolio, was
23 there ever any discussion of the amounts of compensation that
24 was being paid to Mr. Espy for handling some of Mr. Magness'
25 investments?

1 A. He was paid on commission through Stanford, and I did an
2 analysis at one point of how much it was that he was making in
3 commissions on Gary's account from the brokerage
4 statement -- you know, the confirms, shows what the commission
5 is that -- that's being paid.

6 And so I did an analysis of that, because Tom was the one
7 who was trading in GMAG, for example, all of those little
8 stocks and -- and doing a lot of -- a lot of trading on those
9 little stocks. And so I showed Gary how much Tom was making
10 on that part alone.

11 Q. On the GMAG part alone?

12 A. No, on the commission part, just how much he was making
13 overall on commissions, which was hundreds of thousands of
14 dollars.

15 Q. Mr. Powers asked you a series of questions at varying
16 intervals in time about whether you knew anything about a -- I
17 think he referred to it as a referral fee that was paid to Mr.
18 Espy?

19 A. Correct.

20 Q. Do you remember that?

21 A. Yes.

22 Q. Was there any paperwork that you're aware of, whether it
23 was aware at the time or after the trouble began with the
24 Receivership, that showed any sort of referral fee to Mr.
25 Magness that he was paying to Mr. Espy for the CDs?

1 A. No. The only way we found out about it was reading a
2 pleading that said that the brokers had been paid, or that the
3 Receiver was coming after the brokers for this amount of money
4 for one of them and this amount of money for the other for the
5 referral fees that they were paid, and that was when we saw
6 what Tom Espy had made.

7 Q. As you were going through the various minutes with Mr.
8 Powers, and I'm going to give you -- ask you to look at two of
9 them just to use as sort of placeholders, so if I could first
10 get you to look at the March 6th set of investment committee
11 minutes marked as Exhibit 62. And actually exhibit -- when
12 you look at Exhibit 62, you'll see there is an agenda which is
13 the first page.

14 A. Yes.

15 Q. And then you have three pages that are actually the
16 minutes.

17 A. Yes.

18 Q. And then, if you would, do you see that the minutes are
19 signed and do you recognize the signature of the person
20 signing them?

21 A. Yes. Ray Sutton.

22 Q. And do you see that they're dated?

23 A. Correct.

24 Q. And what is that date?

25 A. 10/1/08.

1 Q. And was there a practice that you-all followed in terms
2 of having the secretary -- by you-all, I mean the persons who
3 were attending these investment committee meetings -- was
4 there a practice you-all followed in terms of when Mr. Sutton
5 as secretary would sign and date the minutes?

6 A. Yes. At the next meeting.

7 Q. And so does this tell us that there was not a meeting in
8 between March 6th of 2008 and October 1st of 2008?

9 A. Correct.

10 Q. Do you know why that was?

11 A. I would imagine because there was so much going on during
12 that period of time, that there wasn't time to have a meeting.

13 Q. And by "so much going on," what do you mean?

14 A. Well, 2008 was the year of the big market crash, sort of
15 ongoing. And there was a lot that was happening every single
16 day, a lot of decisions to be made. I would talk to Gary for
17 hours on the phone about what we should do about whatever, not
18 relating to anything that was specific to the board, just the
19 stock.

20 Q. Were the various margin call transactions things that
21 required the specific involvement of the board or the
22 investment committee?

23 A. No. It only involved Gary.

24 Q. And when did the situation where the margin calls started
25 to mount and there became an issue with having sufficient

1 funds to address them, when did that first really start coming
2 up?

3 A. I would say probably in the middle of 2008, but certainly
4 as it got into the fall, that was when the crisis was -- was
5 worse.

6 Q. And can you -- when you say in the fall, can you
7 attribute a month or a --

8 A. Well, October was a huge disaster, but so was September,
9 and everybody thought the markets were going to continue to
10 correct, but they just continued going down instead of ever
11 really making a correction and going the other way.

12 Q. Ms. Dokken, Mr. Powers has graciously handed you a
13 document marked as Exhibit D1.

14 A. Yes.

15 Q. And you had talked to him about the time frame on which
16 the LINTA stock had declined in value. Do you remember
17 discussing that with him generally?

18 A. Yes.

19 Q. And this particular document refers to Liberty Media
20 Interactive in the upper left-hand corner. Do you see that?

21 A. Yes.

22 Q. And that's the stock you referenced by the acronym LINTA.
23 Right?

24 A. Yes.

25 Q. And do you see there that that shows that between

1 September and November of 2008, the price of that stock went
2 from somewhere around \$14 a share down to about \$2 a share?

3 A. Yes. I remember it well.

4 Q. And is this part of the economic events that were putting
5 the pressure on Mr. Magness and his margin situation in the
6 September-October time frame of 2008?

7 A. Correct.

8 Q. In the -- that same time frame, you -- Mr. Powers showed
9 you a document--let me get the number for you--which
10 was Deposition Exhibit 90, 9-0. Could you find that again for
11 me, please?

12 A. Yes.

13 Q. And you described for him what this meant, and I'm not
14 going to reinvent that wheel. But on this document is it
15 correct that it shows Mr. Magness being able to reduce his
16 debt over this month-long period for the month ending October
17 31st of 2008 from -- and I'm going to use round numbers --
18 roughly 309 million to roughly 151 million?

19 A. Correct.

20 Q. And did Mr. Magness have the assets on hand in his stock
21 portfolio to reduce that 151, roughly, million dollar debt any
22 further in that time frame?

23 A. Well, just if you look at this, if LINTA's \$2, he's not
24 making much if he sells his entire holdings in LINTA because
25 the stock price -- all of the stock prices were so depressed

1 at that point in time.

2 Q. And does he still have the zero basis issue that you
3 discussed with Mr. Powers on at least the GMIT stock?

4 A. Correct. So everything that he was selling here as this
5 was going down, he was having to pay capital gains on that as
6 well.

7 Q. Mr. Powers asked you some questions about a -- some \$12
8 million that got placed into that government fund account at
9 Merrill Lynch. Do you remember that?

10 A. Yes.

11 Q. What happened to that money going forward in time after
12 October?

13 A. Well, it was -- it was the money that was used for
14 continuing operations. So we wanted there to be cash
15 regardless of what was happening outside of -- of just that
16 one account for capital calls. He was still doing this movie
17 and he had capital calls and he had ongoing capital call
18 obligations in some of these other things that he was involved
19 in, plus just being able to pay all the salaries of the ranch
20 people and the data center people and everybody else. This
21 was the money that was the -- the money that was going to be
22 able to get him through no matter what else happened
23 for -- until the end of the year basically.

24 Q. Okay. And let's -- let's walk through the transactions
25 in October, if I may. You discussed with Mr. Powers the first

1 transaction, which was a \$25 million loan.

2 A. Yes.

3 Q. And what was the reason for taking out that loan?

4 A. That was approximately the amount of accrued interest
5 that we had in all of the accounts, and so we thought at that
6 point in time if we were able to pay down what we owed to U.S.
7 Bank, we could get our stock out of U.S. Bank and put it
8 somewhere else that had less than a \$10 floor, and that would
9 take care of our whole situation. But as you can see from
10 that perspective, October 1st is kind of in the middle of this
11 cliff.

12 Q. And you're referring to D1 when you talk about the cliff?

13 A. Yes.

14 Q. And in the context of that \$25 million, what was the debt
15 you were looking to take care of at U.S. Bank?

16 A. Lines of credit.

17 Q. What was the outstanding balance on those lines of
18 credit?

19 A. I could probably intuit that from one of the things he
20 showed me once, maybe this first one. What's the date of
21 this?

22 Q. I think that's September, is it not?

23 A. September 2008. Let's just see what we have here. Well,
24 there's \$67 million owed to U.S. Bank as of September 30th,
25 2008.

1 Q. Okay. And from September 30 of 2008 until you were all
2 able to arrange that loan on October 10th, do you know what
3 happened to the loan balance at U.S. Bank?

4 A. Well, we had to pay a significant amount of it off. If
5 you look on this, for example, LINTA is at 12.76, was \$25
6 million. It was one of the big positions there, so you can
7 imagine when that went to 2, that that didn't provide very
8 much collateral for this \$67 million worth of debt.

9 Q. So when you referenced 12.76, you are referring to
10 \$12.76?

11 A. A share.

12 Q. And what is the exhibit you're looking at for that?

13 A. At the first exhibit that he gave me, 181.

14 Q. And when you-all received the \$25 million from Stanford
15 on that first loan, did you, in fact, pay that money to U.S.
16 Bank?

17 A. Yes.

18 Q. When you -- and then in what period of time did you-all
19 realize that the \$25 million wasn't enough money, you needed
20 to borrow more?

21 A. A couple of days probably. Not very long.

22 Q. And -- and you described for Mr. Powers the circumstances
23 by which you-all paid back roughly 24.25 million and
24 then -- and had to come up with another 750,000 or so in cash?

25 A. Yes.

1 Q. Where did you get that 24.25, roughly, million dollars?

2 A. We borrowed from other places.

3 Q. What other places did you borrow from?

4 A. Probably Merrill Lynch. So the \$24 million just offset,
5 that was an offset. We didn't have to pay that back. They
6 considered that to be our accrued interest, so they used that
7 as the offset of paying it back, and did an internal
8 bookkeeping kind of thing. But we owed them \$759,000, which
9 was hard to get out of anywhere, \$759,000 at that point.

10 Q. I see.

11 A. Probably we got it from Merrill Lynch.

12 Q. So it's only that roughly \$750,000 -- I say only in
13 quotations.

14 A. Yes.

15 Q. That \$750,000 that was actually paid back to Stanford,
16 the rest being just a book transaction against --

17 A. Correct.

18 Q. -- interest?

19 A. Correct.

20 Q. And then the second loan that was the roughly \$63
21 million --

22 A. Yes.

23 Q. -- what happened to the proceeds from that loan?

24 A. Well, they all came -- it all came in, if you look at 91
25 or 90, whichever this is, 90, it came in and it was allocated

1 to the entities and then used to pay down whichever banks of
2 the entities was having the margin calls at that particular
3 time. Everybody, I think, was at HSBC, and they were -- they
4 were the toughest one to try to deal with.

5 Q. The -- the number shown here for Stanford proceeds used
6 to pay down margin is \$81,363,000. Right?

7 A. Yes.

8 Q. You mentioned in response to one of Mr. Powers' questions
9 earlier today that there was some concern in this general time
10 frame about whether Mr. Magness would make it through the
11 market downturn at all. Do you remember words to that effect?

12 A. Yes.

13 Q. And can you describe for us, please, with a little more
14 detail what exactly you meant by that, how that circumstance
15 came about?

16 A. Well, just using this graph again as -- as the
17 possibility, if it never made this upturn, it was over for
18 him.

19 Q. And what do you mean by "over for him"?

20 A. He wouldn't -- he would have had to continue paying his
21 margins and he wouldn't have had any money left. He would
22 have had the cattle operation, but it costs \$5 million a year
23 to run that operation, for example. The data center was
24 losing money hand over fist.

25 The movie "Precious" was still being filmed and was way,

1 way, way over budget, and they had no choice but to put money
2 into it. But they, you know, had actually tried to sell it to
3 Oprah Winfrey at one point to be able to get out from under
4 that obligation so that they wouldn't have to put any more
5 money into it for postproduction.

6 So if it would have stayed here, he -- all of his stock
7 would have most likely been gone. He would have been left
8 with his other assets. He wouldn't have been able to -- to
9 fund them.

10 Q. Okay. At the point in time of these two borrowings, the
11 first on October 10th and the second one roughly October 14th
12 of 2008, did you have -- you personally -- have any
13 understanding that the Stanford International Bank was part of
14 some sort of fraudulent scheme?

15 A. No. I was so happy they sent us the money.

16 Q. Did you have any suspicion that there might be some sort
17 of fraudulent scheme going on --

18 A. Not at all.

19 Q. -- at that point in time?

20 A. No.

21 Q. Did anyone on the -- who was a member or advisor to the
22 investment committee at that point -- as of that point in
23 time, say a latter date, October 14th of 2008, had ever voiced
24 the thought that the Stanford International Bank might be some
25 sort of fraudulent scheme?

1 A. No. And I think that October really, really ratified
2 everybody's belief that it was a secure investment because we
3 were able to get 80 percent out instantly. I mean, they
4 weren't dragging their feet or stalling us or whatever. They
5 were processing the requests as soon as we gave them to them.

6 Q. Prior to the -- Mr. Madoff's arrest in or on December
7 11th of 2008, would there have been any discussion in the
8 context of any Magness investments -- or I should say -- let's
9 say Mango Five Family, Inc., monitored investments that they
10 might be Ponzi schemes?

11 A. No. I don't think anybody ever discussed a Ponzi scheme
12 or said the word "Ponzi" until Madoff. And Madoff happened
13 and no one necessarily thought that -- that it was a Ponzi
14 scheme at that point in time. I think that Gary still doesn't
15 believe it was a Ponzi scheme. I think that he thinks that if
16 Stanford would have been able to continue, it would have
17 pulled out.

18 Q. Pulled out meaning recovered financially?

19 A. Yes.

20 Q. When -- or I should say, after the roughly \$63 million
21 loan on October 14th of 2008, did any of the Magness, the
22 three entities you've been talking about all day with Mr.
23 Powers and a little bit with me, did any of those three
24 entities get any more money from Stanford International Bank?

25 A. No.

1 MR. PETRIE: It's just a convenient breaking place,
2 Your Honor.

3 THE COURT: How much more is left?

4 MR. SADLER: I think it's about ten minutes.

5 MR. PETRIE: I can check for sure, Your Honor.

6 THE COURT: Oh, why don't we go ahead and go to
7 lunch.

8 MR. PETRIE: Okay.

9 THE COURT: Let's see you-all back at 1:30, please.
10 1:30.

11 (Whereupon, the jury left the courtroom.)

12 THE COURT: And do you know how much is getting
13 charged to the Receiver?

14 MR. PETRIE: I have that agreed allocation, Your
15 Honor.

16 THE COURT: Okay.

17 MR. PETRIE: Would you like me to hand up the little
18 Post-it?

19 THE COURT: Or just tell me how much of it.

20 MR. PETRIE: Of this, the allocation we calculated
21 from the total, not -- just to this point but to end --

22 THE COURT: Right.

23 MR. PETRIE: -- would be for the Receiver, 55
24 minutes; for the Magness parties, three hours and 24 minutes.

25 THE COURT: Okay. Anything else?

1 MR. SADLER: Yes, Judge. We just have some exhibit
2 housekeeping. Aside from the rather glaring violations of at
3 least two parts of your orders in limine, we have three
4 exhibits that were shown to the jury that weren't admitted and
5 need to be admitted. Plaintiff's Exhibit 108 and 109 need to
6 be offered. And Plaintiff's Exhibit 90, there was an
7 objection that you overruled when you reviewed the deposition.
8 That third exhibit needs to be offered. So offering 108, 109,
9 and 90.

10 THE COURT: Okay. Any objections other than the one
11 that I've already overruled?

12 MR. PETRIE: That was not our objection, Your Honor.
13 I assumed it was addressed by your ruling, and no objection to
14 the other two.

15 THE COURT: Okay. They're admitted. Anything else?

16 MR. SADLER: No, Your Honor.

17 MR. PETRIE: No. Thank you.

18 THE COURT: No? Okay. We'll see you back at 1:30.

19 (Lunch recess.)

20 THE COURT: I understand you-all want to talk about
21 something oh so very briefly.

22 MR. SADLER: Very briefly, Your Honor. And Mr.
23 Petrie and I have conferred on this.

24 Just before the break we saw some testimony go by from
25 Ms. Dokken where she was talking about what somebody else knew

1 or thought or believed.

2 We're going to have live witnesses later this afternoon,
3 and for limine purposes Mr. Petrie and I have agreed that
4 before either of us try to elicit testimony from anybody on
5 the stand about what they think somebody else knew or thought
6 or believed, we would talk to Your Honor about it first, since
7 that's probably inadmissible anyway. But for limine purposes,
8 I wanted to address that since it went by with Ms. Dokken's
9 testimony, and that just alerted me that we may have the same
10 issue with live witnesses.

11 THE COURT: Okay. All right. I think we're ready.

12 (Whereupon, the jury entered the courtroom.)

13 THE COURT: Be seated.

14 How are you-all doing?

15 SEVERAL JURORS: Good.

16 THE COURT: Everyone had a nice lunch?

17 SEVERAL JURORS: Yes.

18 THE COURT: Good. Well, I think we're ready to go.
19 We'll go until about 3:00 or 3:10 and take an afternoon break,
20 and then wrap up until 5:00.

21 Are we ready to proceed?

22 MR. PETRIE: Yes, sir.

23 THE COURT: All right.

24 VIDEO DEPOSITION OF TONYA DOKKEN, CONTINUED

25 Q. You mentioned in response to some questions from

1 Mr. Powers that there came a time when the investment
2 committee of the Mango Five Family, Inc., or MFFI--I will use
3 the acronym--was looking at all of the investments that it had
4 made, including things like Tontine, and you mentioned that
5 British real estate fund, et cetera. Do you remember that?

6 A. Yes, quinlan.

7 Q. Thank you very much. And in looking at Quinlan and
8 Tontine, was there ever any discussion of whether those
9 investments were some sort of fraudulent scheme having lost
10 all that money there?

11 A. I don't think anybody thought it with Tontine because he
12 was very direct right off the bat that he -- you know, all of
13 the rest of his hedge funds had always made money and this was
14 the only one that didn't, and he had invested in real estate
15 and he was stupid and he threw himself on everyone's mercy and
16 said he, you know, deserved to die or something, and so we
17 genuinely felt sorry for him.

18 Quinlan, they were able -- you know, they showed that
19 they owned all the properties, and then they showed all of the
20 bank debt that they had taken out to leverage all of the
21 properties that they bought. And they were trying to
22 negotiate with the banks to lower the debt to what the value
23 of the buildings currently were, and they weren't wanting to
24 do that, so they were upside down.

25 Gary still is involved in that. They are trying to sell

1 properties or whatever, but he couldn't get out of it. They
2 were coming after him if he didn't continue making the capital
3 calls that he had committed to. And we tried to sell that
4 investment to other investors and they were trying to sell to
5 us.

6 So pretty much everybody wanted to be out of that thing
7 and nobody could be out of it. So they're just trying to
8 settle whatever debt they can, sell the properties for
9 whatever they can sell it for, and be done with it.

10 Q. Okay. And the "they" that are trying to settle the
11 obligation --

12 A. The Quinlan people.

13 Q. If you could look at the October 1st, '08 investment
14 committee minutes, and they're marked as deposition Exhibit
15 73. If you'll just let me know when you've retrieved those or
16 found them in your binder.

17 A. I've got it.

18 Q. Thank you. In this set of investment committee minutes
19 that -- where the nuts and bolts of it are essentially the
20 first two pages, setting aside the no further business and
21 signature on the third page, is there any discussion in here
22 that you can point us to that talks about addressing calls
23 from margin borrowings, margin loans?

24 A. Well, report and diversification of Liberty and
25 affiliates talks about that \$10 floor, the covenants in the

1 HSBC and U.S. Bank loan docs require liquidation of some
2 stocks if trading prices fell below \$10 a share. So having an
3 actual loan is more onerous than just having a margin debt
4 because of the floor that they would set.

5 You know, they -- the -- if you -- at that point in time
6 I think the floor was \$5 a share for just any kind of stock
7 that you bought. If it fell below \$5 a share, it wasn't
8 marginable any longer. At one point it was \$3 a share, so I
9 don't remember exactly where it was. But their floors were
10 \$10 a share.

11 Q. Okay.

12 A. Making it harder than to come up with enough collateral
13 if the stock fell below that.

14 Q. Okay. And when the stock, as we've seen, the LINTA stock
15 dropping below \$10 -- let's pick a nice round number, and say
16 the stock's at 9, so it is under the floor.

17 A. Yes.

18 Q. What does that mean in this type of loan structure?

19 A. Well, it could mean that they could call the entire loan.
20 So if you break a covenant of the loan docs, then the entire
21 loan is at risk and they could call the whole thing. So if we
22 owed HSBC \$200 million, they could make the whole \$200 million
23 due in three days.

24 Q. Does -- is there also a structure in the loan where once
25 you go beneath that floor, the lender has rights against the

1 stock that it holds collateral, even though it's below the
2 floor?

3 A. Yes.

4 Q. And in a very sort of 50,000 foot view, what are those
5 types of rights?

6 A. Well, they can sell it, and they don't have to sell the
7 stock that is the one that triggered the -- the floor problem.
8 So whatever is in the portfolio that they hold, they could
9 sell whatever they want to be able to come up with the number
10 that they need.

11 So if you are particularly certain that not LINTA, a
12 different stock, Comcast, was going to go up, they could just
13 arbitrarily decide to sell Comcast and they don't have to let
14 you know what they're going to sell. They just sell whatever
15 they feel like.

16 Q. Sorry. I didn't mean to interrupt?

17 A. Okay.

18 Q. Were your banking transactions structured so that the
19 banks would only be authorized to sell back up until they get
20 to the floor, or can they sell to liquidate the entire loan?

21 A. Well, they theoretically could have liquidated the entire
22 loan, because when you break a covenant, that makes the entire
23 loan kind of null and void. So they could have done that.
24 But they worked with us to try to sell in an orderly manner,
25 HSBC did. They were very good about it.

1 Q. Did U.S. Bank work with you?

2 A. No, they did not.

3 Q. Is there a reference in here in these December 5 minutes
4 marked as Exhibit 92 to paying down those margin loans that
5 you can identify for us?

6 A. Well, it -- I mean I guess this report on asset
7 allocation, he said at the present time it was impractical to
8 recommend an asset allocation plan until GMIT had paid down
9 its debt. That the only practical way to prepare an asset
10 allocation model would be would be to diversify the
11 concentration of Liberty and it's affiliates, but given
12 current marking -- market conditions, that wasn't acceptable
13 to Mr. Magness.

14 Q. Had the market improved by this point in time from what
15 we were talking about in October?

16 A. Somewhat, but it was still -- I mean, it was at the
17 bottom of the bottom on December 5th if you look here on our
18 LINTA chart.

19 Q. On D1 again?

20 A. On D1 again. So right there, December is this point
21 right here at the end. So it hadn't really improved, but it
22 had, in a certain sense, stabilized because we had met all of
23 the margin requirements. So unless something worse was going
24 to happen, we were at least treading water.

25 Q. And in terms of the transactions that happened in

1 October, so after the October 1st meeting but before December
2 5, is there a reason why they're not discussed on December 5
3 in these investment committee minutes?

4 A. The margin calls?

5 Q. Yes.

6 A. Well, I think they probably were discussed at length
7 through this.

8 Q. This being one of your Schedule As?

9 A. This being the schedules, all of the different schedules
10 which then, you know, show whatever. I think that probably it
11 was just not recorded in the minutes as a -- I mean, we never
12 put in the minutes we discussed Schedule A, B, and C. You'll
13 never find that in the minutes anywhere, but it was always
14 something that happened.

15 Q. Okay. And recognizing, then, that you at every meeting
16 discussed Schedule A, B, and C, would that, then, be the
17 amended C you discussed with Mr. Powers where the additional
18 information you stopped including because it wasn't helpful to
19 folks?

20 A. We really never talked about the other assets because it
21 just always really was about the stock portfolio.

22 Q. Okay.

23 A. The investments.

24 Q. And the Schedule A that you discussed at every one of the
25 investment committee meetings, was it a Schedule A that

1 covered the entire period from the last meeting?

2 A. I would bring the Schedule As of the last meeting. And,
3 you know, we did it monthly, so depending on what we wanted to
4 do, and every once in a while I'd do like a chart or a graph
5 or whatever that showed where he was, assets versus
6 liabilities kind of thing.

7 Q. Were the Schedule As some sort of hand-out that you
8 provided to the various members, or the, I should say,
9 Mr. Armstrong, Mr. Sutton, Mr. Knudson, Mr. Magness for each
10 of the investment committee meetings?

11 A. Yes. So I would have an assemblage of all the documents.
12 So if we were doing a document on Fortrust I would have
13 Fortrust financials, and whatever other information it was
14 that I thought was necessary to the meeting all put together
15 and rubber banded together and handed out to everyone.

16 Q. Going forward, then, to the dog and pony show
17 presentation that preceded your personal investment, was there
18 any discussion in that dog and pony presentation about the
19 bank's willingness to make loans to CD depositors on terms
20 that would be 80 percent loan to value and some interest rate?

21 A. Yes. It was two percent, though, instead of this one
22 percent by that point in time.

23 Q. At that point in time was it your understanding that that
24 was available to you on your \$100,000 CD, if you wanted to go
25 that route?

1 A. I don't know that I ever felt it was available to me. It
2 was available to Gary, and on his \$100 million, but my
3 \$100,000 paled in comparison.

4 Q. And did you know it was available to Gary prior to the
5 October '08 time frame when he actually borrowed money using
6 the CDs as collateral?

7 A. Yes.

8 Q. And how did you know that?

9 A. Well, we talked about it, Tom talked about it, about how
10 that was an option. Tom obviously wanted that to happen more
11 so than Gary cashing out of the CDs when he really needed the
12 money. He wanted Gary to take the loans rather than cash out.

13 Q. And did Mr. Espy give you-all any reason why Mr. Magness
14 should take the loans versus just cashing out and getting 100
15 percent?

16 A. To preserve the great interest rate that he was making,
17 because when this all settled out he would be happy to be
18 making that interest rate.

19 Q. And what at -- when what all -- what is all?

20 A. The market, the abysmal market situation that was going
21 on. Tom is really an optimist.

22 Q. Mr. Powers asked you some questions about SEC
23 investigations of Stanford entities. Do you recall discussing
24 that generally?

25 A. Yes.

1 Q. At any point in time prior to October 15th of 2008, did
2 you become aware of the existence of an SEC investigation into
3 the Stanford International Bank?

4 A. I don't really recall that.

5 Q. Was there any discussion among the members of the
6 investment committee about any sort of pending or threatened
7 investigation of -- by the SEC of the Stanford International
8 Bank in the same time frame?

9 A. Not that I recall.

10 Q. When you were discussing in October with Mr. Espy trying
11 to get money out of Stanford International Bank, did anyone
12 suggest to Mr. Espy that, irrespective of his views, he should
13 go back to the bank and say you-all should get -- you should
14 break the CDs and get 100 percent of what you were -- thought
15 you were entitled to?

16 A. I don't -- I don't think that anybody actually said that
17 to him at that point in time.

18 Q. At any point in time in 2008, was there that kind of
19 conversation with Mr. Espy about let's just get all of our
20 money out of Stanford International Bank?

21 A. I think maybe at the very, very end of 2008.

22 Q. Why do you think it happened in that time frame?

23 A. Because that's when everything was just really falling
24 apart as far as the markets and other sorts of things. And we
25 knew that Gary still needed more money, and so it seemed the

1 logical thing to do is to just get the balance out.

2 Q. Between October 14th of 2008 and December 31st of 2008,
3 did you obtain anymore information, either positive or
4 negative, from Stanford International Bank about its business?

5 A. Well, I think that Tom was -- Tom said that he was
6 concerned about what was happening.

7 Q. And when did he say that?

8 A. At the end of 2008, in December.

9 Q. In the December 5 minutes that we looked at before we
10 took our short break, there was a reference to a capital
11 infusion--at least it was being reported in the investment
12 committee that there had been a capital infusion to the
13 bank--of \$481 million.

14 A. Yes.

15 Q. How -- did you-all have some reaction to that piece of
16 news that Mr. Espy provided?

17 A. Well, we think that that was what enabled them to lend
18 Gary the money that he needed, or partly enabled them for Gary
19 to be able to get the money that he needed.

20 Q. Did you-all follow up with Mr. Espy and ask for some sort
21 of demonstration of that capital infusion or proof of that
22 capital infusion of \$481 million?

23 A. No, I don't believe so.

24 Q. Why not?

25 A. Well, I think because we -- our level of anxiety over how

1 we were going to pay these margin calls and what was going to
2 happen with Gary's life was lessened when we got this money
3 out from Stanford, the 80 percent. And the markets were sort
4 of starting to stabilize at that point in time. They weren't
5 coming back, but they were stabilizing.

6 So it was also a year-end. We were doing huge tax
7 calculations to try to figure out what the tax liability was
8 going to be from all these sales and all of this stuff that
9 had happened. So there was just a lot of other things that
10 were going on right then.

11 We were concerned about Stanford in relationship to
12 Madoff, because that's all anybody was talking about at that
13 point in time, and how many other Madoffs were there out
14 there, and, you know, how do you really know and that sort of
15 thing. So there was anxiety in general about all investments,
16 other than, of course the Liberty investments, which he's
17 going to hold onto until the day he dies.

18 Q. So you're talking now about the period after December 11
19 when Mr. Madoff was arrested?

20 A. Yes.

21 Q. Did you have any information about Mr. Madoff and his
22 business prior to the announcement of his arrest in --

23 A. No, I had no idea who he was. I don't think anybody did
24 in the group.

25 Q. Could you take out Defendants' Exhibit 1? That is the

1 chart.

2 A. Oh, the chart. Sorry. Yes.

3 Q. In your testimony, you were pointing out that if the
4 sharp downward line that we see from October to November of
5 2008 had continued down to zero, that that would essentially
6 have zeroed out Mr. Magness' net worth. Correct?

7 A. Yes.

8 Q. If -- now, that's true certainly if Stanford
9 International -- if the Stanford International Bank holdings
10 of \$100 million were taken out and Liberty went down to zero,
11 then he would have been left with nothing. Right?

12 A. Well, he would have had his tangible assets.

13 Q. Sure, he would have had --

14 A. But -- but no way to really fund them. He would've had
15 to sell off some of those eventually.

16 Q. He would've had the ranches and those sorts of things?

17 A. Yes.

18 Q. But if you looked at the portfolio you had of securities
19 and the Stanford investments, if he had kept the Stanford
20 investments, thinking that Liberty was going to zero, if
21 Liberty had gone to zero he would have been left with \$100
22 million as far as he was concerned?

23 A. Yes. But that would never have been an option because he
24 prizes the Liberty stock among -- above pretty much everything
25 else.

1 Q. I understand. But the choices on the table in October of
2 2008 were let go of more Liberty stock or cash in the Stanford
3 CDs is what your testimony was.

4 A. Well, the Stanford CDs were always going to be \$100
5 million, let's say. But Liberty had the potential if it was
6 worth, let's just say, \$500 million, it had the potential of
7 being worth billions of dollars. And that's what subsequently
8 happened.

9 Malone did do exactly what Gary's dad said he was going
10 to do, you know. It just took him lots longer than anybody
11 thought possible, spun it all off into actual companies, like
12 D-TV that merged with AT&T, and his stock portfolio has risen
13 dramatically. Stanford would only have ever been worth \$100
14 million. So, you know, it's back to Gary's lack -- or his
15 appetite for risk. He was totally willing to risk everything
16 on the Liberty stock.

17 Q. And he was not willing to risk everything on -- well, he
18 was not willing to risk on Stanford, as we saw from the
19 meeting minutes as of the latter half of 2008. Correct?

20 A. No. He wanted -- he needed the cash to be able to keep
21 his position in Liberty. So when it came down to a choice of
22 keeping -- staying in Stanford or keeping Liberty, there was
23 no question what he would do.

24 Q. And we know now -- I mean, we knew now and we knew then
25 that Liberty was a real business all along. Right?

1 A. Well, it wasn't a very good business at that point in
2 time. There wasn't -- it stayed stagnant for years and years
3 and years and years and years.

4 Q. I mean, you see a pretty dramatic increase from November
5 2008 even through the middle of 2009, don't we?

6 A. Yes, but you see it still never came back up to where it
7 was before.

8 Q. And Liberty --

9 A. -- in this -- this time frame. This is 2010.

10 Q. Right. But Liberty is a real business with public
11 financials that you can understand. Right?

12 A. But it wasn't that. It's the emotional attachment he has
13 to his dad's company. That was the most important thing for
14 him.

15 Q. I understand. But it is true, is it not, that Liberty
16 was a public company whose financials you could look at and
17 understand?

18 A. Yes.

19 Q. And Stanford International Bank was not a public company,
20 and it turns out it was not a real business after all, as we
21 know today.

22 A. Well, I guess that -- you know, it depends on your
23 position. I think Gary thinks it could have still been a
24 business. But that was never -- the way that you're putting
25 it was never anybody's thought. No one ever thought that

1 way--stay with Liberty Media or stay with Stanford. That was
2 never the choice, because if Gary was -- he would have -- he
3 would have gone to zero rather than selling a single share if
4 he could have.

5 He still has not forgiven the banks that sold him out,
6 and he's not doing business with any of them anymore. He
7 moved away from all of them. And he used to make me keep a
8 chart and graph thing for years that showed where he would
9 have been had they not sold him out. So it -- not selling was
10 his focus, not anything else at this period in time.

11 Q. Let me ask you about Plaintiff's Exhibit 166. That
12 was -- I don't think it's in the notebook. I think it's in
13 your stack.

14 A. Yes.

15 Q. You told me that the plan changed with regard to how you
16 were going to repay the Stanford loan on the 10th when LINTA
17 went below \$10. Did I understand that correctly?

18 A. No. LINTA had already gone below \$10, but everybody
19 thought that they were going to stabilize, so we needed to pay
20 -- pay the loan at U.S. Bank to solve the \$10 floor problem.
21 But we thought that that was going to stabilize and come back
22 up above \$10, and then we would be able to sell stock, do
23 whatever, repay the loan, or borrow more money from someone
24 else or whatever. But that didn't happen because from October
25 10th on down the stock kept going down.

1 Q. I see. So it wasn't that it went below ten on the 10th.
2 It had already gone below 10, and it just didn't come back up
3 at a point at which he could repay the loan?

4 A. Yeah. I don't know if we can discern from this when it
5 actually went to 10.

6 Q. Would it surprise you to learn that it went down below 10
7 on the 8th and then again on the 9th?

8 A. Yeah. So it was already triggered.

9 Q. And it started below 9 on the 10th.

10 A. Yeah. So it was triggered. We had to pay it off. They
11 had to send us the money instantly so that we could avoid a
12 sellout there.

13 Q. But, I mean, you decided on the 13th to go ahead and pay
14 it with accumulated interest. In other words, you did not
15 wait very long for it to stabilize.

16 A. We couldn't. When you get a sellout notice you only have
17 five days.

18 Q. Well, I understand that. So you took the loan and
19 you -- you took the money and you repaid the loan, but you
20 paid back the loan to Stanford --

21 A. No.

22 Q. -- within two business days.

23 A. No. They used the accrued interest as the -- and they
24 considered that a payment.

25 Q. Right. That's -- which is my point. On the 10th you

1 told Stanford you were going to use it -- you were going to
2 use sale proceeds from outside of Stanford, but very quickly
3 you came to the conclusion that you were going to use
4 accumulated interest. Or was that the plan all along?

5 A. Things were happening so fast that I'm not sure what the
6 plan was. But the plan became clearer the day after, or
7 whatever, that we needed that accumulated interest to be a
8 payout and nothing else.

9 Q. Were you worried that if you told Stanford that you were
10 going to pay back the loan with accumulated interest that
11 Stanford would not give you the loans?

12 A. No, I don't think it was even a consideration.

13 Q. I just want to ask you about one more exhibit, and that's
14 Plaintiff's 92. And I'm looking at point No. 4 on the first
15 page of the meeting minutes. You were asked some questions
16 about whether anybody contradicted Mr. Espy's recommendation
17 and told him that you should just sell out of the CD; not take
18 the loan but sell out of the CD.

19 A. Which we did in December, but not before that.

20 Q. Which you did in January. Right? After the meeting with
21 Mr. Rodriguez-Tolentino?

22 A. Yes. But we were talking about just trying to, you know,
23 get -- see if it was possible to get it out.

24 Q. And Plaintiff's Exhibit 92, what is reported is that
25 Mr. Espy reported that he had approached Stanford

1 International Bank after the October 1st meeting regarding the
2 redemption of Mr. Magness and GMIT certificate of deposits,
3 and that redemption would not be possible at this time. That
4 is what the meeting minutes say. Correct?

5 A. Well, I don't know when after the October 1st meeting he
6 approached them. It could have been December 4th.

7 Q. Is that your recollection that it was closer to December
8 5th than October 1st, or do you recall?

9 A. That's my recollection. By this meeting in December, Tom
10 Espy was a wreck. He was just totally a mess, drinking and
11 whatever, and he didn't really give us any reassurance about
12 anything.

13 Q. Now, the third -- excuse me, the -- yeah, third sentence
14 of this paragraph, however, says, Mr. Espy responded that
15 after the bank had advised that redemption would not be
16 possible at this time, GMIT borrowed from the bank against
17 these certificates, et cetera et cetera. So it must have been
18 before mid October that he had that conversation with
19 Stanford. Would you disagree?

20 A. I don't remember it. I really don't remember it being
21 anybody's intention at that time to cash them in, except for
22 possibly theoretically, you know, that we were going to
23 theoretically need all the money and cash them in. But I do
24 remember Gary and Tom specifically wanting to hold onto them.
25 And once they took out 80 percent, that seemed to stabilize

1 things, and nothing happened for a while.

2 And then sometime in December of '08 into January of '09
3 it was decided that we should just get out of it altogether,
4 and I think we sent letters in January or February or
5 something. We wanted to have a call with Juan Rodriguez, and
6 that took a while to set up, for whatever reason.

7 Q. I just want to make sure I understand your position with
8 regard to what's reflected in the minutes. Are you saying
9 that what's reflected in the minutes is inconsistent with your
10 recollection, or that you just don't recall whether this was
11 said?

12 A. Well, keep in mind that I was cut out of the loop of a
13 lot of these things. Gary and Tom would talk to the bank.
14 Gary and Tom would do whatever. They were still meeting at
15 Gary's house. Gary was gone a lot also during this time. He
16 had a place in -- I don't think he bought the place in L.A.
17 yet, but they were filming the movie. They were on location.
18 They were whatever. Stupid movie.

19 So it was really, really difficult. No one was around.
20 No one was in the same location as each other. And so you got
21 the news third hand from someone else or whatever, you know.
22 No one sent out group emails at that point in time to keep
23 you-all apprised of what the situation was. Someone called
24 someone to talk to someone else and the conference someone
25 else in. They'd think that they talked to everybody, but then

1 so-and-so wouldn't know anything that was going on. So I
2 can't really say what -- I felt that the -- you know, that the
3 goal was to borrow against them.

4 Q. But as far as -- for the reasons you described, you're
5 unable to contradict what is described in the minutes. That
6 may very well have been what Mr. Espy did.

7 A. Yeah.

8 MR. PETRIE: That's the end of that, Your Honor.

9 THE COURT: All right. Who's next?

10 MR. BRYANT: Your Honor, the Magness parties will
11 call Robert Armstrong, who is just outside in the hallway.

12 THE COURT: All right.

13 Go ahead and have a seat, please, sir. Could you raise
14 your right hand, please?

15 (Whereupon, the oath was administered by the Court.)

16 THE COURT: The Magness parties may proceed.

17 MR. BRYANT: Thank you, Your Honor.

18 ROBERT ARMSTRONG,

19 testified on direct examination by Mr. Bryant as follows:

20 Q. Please state your name for the record.

21 A. Robert E. Armstrong.

22 Q. What's your current business address?

23 A. My current business address is 100 West Liberty Street,
24 Reno, Nevada, 10th floor.

25 Q. And what's your occupation or profession?

1 A. I'm a practicing lawyer.

2 Q. And could you describe for the jury your education past
3 high school?

4 THE COURT: Could you get the microphone a little
5 closer to you? We are having --

6 MR. BRYANT: Sure. And I will get closer to it as
7 well.

8 THE COURT: It's not you. It's the witness.

9 THE WITNESS: I attended Santa Clara University, got
10 my Bachelor of Science in commerce and accounting. After that
11 I went to Georgetown University Law Center. I got a juries
12 doctorate there in 1979. And then in 1980 I graduated from
13 New York University and got an LLM in taxation at that
14 institution.

15 Q. And in what states or jurisdictions are you currently
16 licensed to practice law?

17 A. I'm currently licensed in Nevada and the District of
18 Columbia.

19 Q. Are you also or have you been a certified public
20 accountant?

21 A. Yes. I've been a certified public accountant since 1980,
22 and I am still in good standing.

23 Q. Okay. So about how long at this point have you been a
24 licensed attorney?

25 A. As an attorney I was -- passed the bar in 1979, so about

1 37 years, give or take.

2 Q. And what have been your main areas of law practice over
3 your career?

4 A. My main areas have been tax transaction planning, or tax
5 transactions, estate, estate planning, trust and estates, and
6 some minor employment law.

7 Q. And I don't want to embarrass you with this, but I'm
8 going to ask you whether or not at one time or another you
9 have been named as one by Best Lawyers of America recognized
10 as -- in trust and estate law and other areas?

11 A. Yes. I've been named I think since 1993 in civil
12 practice areas, and I think I currently am as well.

13 Q. In 2016 have you been recognized by Best Lawyers of
14 America in four areas--real estate law, tax law, corporate
15 law, and trusts and estates law?

16 A. Yes, I was.

17 Q. Okay. What law firm do you practice with?

18 A. I practice with the law firm of McDonald, Carano and
19 Wilson.

20 Q. And how long have you been a partner in that law firm?

21 A. Since 1984.

22 Q. For most of the time that you've been a partner with that
23 law firm have you been involved with trusts and estates and
24 with investments that are made by trusts and estates?

25 A. Yes.

1 Q. During your several decades of law practice in Nevada,
2 have you seen any Ponzi schemes or frauds?

3 A. Yes.

4 Q. What generally have you seen over the years in that
5 regard?

6 A. Well, primarily in the local area mortgage lending where
7 people were sold investment participations in mortgages and
8 sometimes secured by property that either didn't exist or was
9 overcollateralized and the promoter was -- sometimes absconded
10 with the money.

11 Q. As a result of your experience, have you tried to be
12 alert in your law practice to the possibility that your
13 clients might be making investments in something that looked
14 good but turned out to be a Ponzi scheme or a fraud?

15 A. Oh, I try to be aware of what they're investing in and
16 who they're investing with.

17 Q. Have you ever represented Gary Magness or his related
18 entities or trusts?

19 A. Yes.

20 Q. When did you first represent Mr. Magness or his related
21 entities or trusts?

22 A. In 2006 I was introduced to Mr. Magness by Ray Sutton,
23 who is his legal counsel, to establish a family trust company
24 in Nevada and move trusts to Nevada for trust administration.

25 Q. And, in general, during what period of time since 2006

1 have you been involved in representing Mr. Magness or his
2 related entities or trusts?

3 A. Well, the primary representation was Ray Sutton. I did
4 local Nevada work when called for, and I've been continuing
5 representing in that area representing him since -- from 2006
6 to the present day.

7 Q. Okay. At the -- during that time that you represented
8 Gary Magness, have you also represented many other clients?

9 A. Yes.

10 Q. Have you ever been in any way heavily dependent on Gary
11 Magness or his legal business for your living?

12 A. No.

13 Q. And have you ever had any other business relationships
14 outside your law practice with Gary Magness or any of his
15 entities?

16 A. Other than we house his family trust company at our
17 offices and supply an office to him, no.

18 Q. Okay. And I'll ask you about that in a second.
19 When did you first personally meet Gary Magness?

20 A. I think in 2007.

21 Q. So at this time you already had been practicing law over
22 25 years?

23 A. Yes.

24 Q. And in late 2006 or early 2007, what role did you take in
25 connection with Mr. Magness' trusts and his investment

1 entities?

2 A. Right. Basically two elements. One, we represented
3 Mr. Magness and his trusts in moving them from Colorado to
4 Nevada, and getting the family trust company approved for
5 serving as a fiduciary of those trusts. And then after that
6 we would attend meetings of the trust company periodically.

7 And on the day-to-day, we maintain offices for the trust
8 company, file cabinets, documentation, and set up -- establish
9 bank accounts and maintain business licenses for the family
10 trust company.

11 Q. We've heard references to Mango Five. Could you describe
12 what that is?

13 A. Mango Five Family, Inc. is the Nevada corporation that is
14 acting as the family trust company for the Magness family.

15 Q. So when you referred to the trust company in the previous
16 answer, was that a reference to Mango Five?

17 A. That's a reference to Mango Five Family, Inc.

18 Q. Okay. Were you either a member of or an advisor to the
19 Mango Five investment committee from early 2007 into at least
20 2009?

21 A. Yes.

22 Q. During that whole time period from early 2007 to at least
23 2009, did you participate in all, or nearly all, of the
24 meetings of the investment committee of Mango Family?

25 A. Yes, I did.

1 Q. Okay. In all of those meetings, did you personally make
2 handwritten notes as you participated in the meetings?

3 A. Yes, I did.

4 Q. And did you do your best at that time to write down what
5 you regarded to be the significant topics --

6 A. Yeah.

7 Q. -- In the meetings?

8 A. Yeah. I try to write down topically what was important
9 or noteworthy.

10 Q. Did you make those notes right at the time that you were
11 last participating in the meeting as opposed to weeks or
12 months later?

13 A. I did them contemporaneously.

14 Q. And did you ever change or alter your handwritten notes
15 after the fact, weeks or months or years later?

16 A. No.

17 Q. After this lawsuit was filed, did you provide all of your
18 handwritten notes of the Mango Five investment committee
19 meetings to lawyers so they'd be available in connection with
20 this lawsuit?

21 A. Yes.

22 Q. Now, do you recall that there came a time in September or
23 October of 2008 when the financial crisis in the United States
24 was quite severe?

25 A. I remember it well.

1 Q. In the nearly four decades that you've been a lawyer,
2 have you ever seen as severe a financial crisis as existed
3 right in or around October 2008?

4 A. I've never experienced anything like that otherwise.

5 Q. Did you see any affects of that financial crisis at that
6 time, not only in the newspapers and on TV, but in your own
7 legal practice?

8 A. Yes.

9 Q. Could you describe generally what occurred at that time
10 as -- with respect to the clients in your legal practice?

11 MR. DAY: Objection, Your Honor, relevance.

12 THE COURT: Overruled.

13 THE WITNESS: What occurred during that period of
14 time was clients who were invested in the stock market had
15 margin accounts which they borrow money against, and so they
16 could retain their securities and still have some liquidity
17 either to pay bills or do other investments. And at that time
18 clients that were under -- with the market decline, stock
19 market declines, the margin requirements required the clients
20 to put in -- put up additional collateral in order to avoid
21 the sale of those securities in a declining market, thus
22 triggering a tax, a capital gains tax in most cases with
23 regard to those securities.

24 Q. Do you recall that one of the largest financial firms in
25 America, Bear Stearns, nearly failed and was taken over in the

1 first half of 2008?

2 A. I remember that, yes.

3 Q. Do you recall that another one of the very largest
4 financial firms in America, Lehman Brothers, actually filed
5 bankruptcy in September of 2008?

6 A. Yes.

7 Q. Do you recall that the United States government assumed
8 control of AIG, the largest insurance company in the world, in
9 September of 2008?

10 A. Yes.

11 Q. Do you recall that Bank of America announced the
12 acquisition of Merrill Lynch, one of the largest investment
13 firms in the world, because of financial troubles also in
14 September 2008?

15 A. Yes.

16 Q. And do you recall that another major U.S. bank,
17 Washington Mutual, or WaMu, failed and had to be acquired by
18 another bank in that same September-October time frame of
19 2008?

20 A. I did.

21 Q. Do you recall that yet another major U.S. bank, Wachovia,
22 was in severe financial trouble and had to be acquired in that
23 same time frame?

24 A. I did.

25 Q. And finally, do you recall that in late September 2008,

1 Congress passed the Troubled Asset Relief Program, or TARP, to
2 provide hundreds of billions of dollars to banks and other
3 firms that were potentially failing as a result of that
4 financial crisis?

5 MR. DAY: Objection, Your Honor, leading.

6 THE COURT: Overruled.

7 THE WITNESS: Yes.

8 Q. (BY MR. BRYANT) Thank you.

9 Now, Mr. Armstrong, as far as you know or was publicly
10 reported, were any or all of those major financial
11 institutions that failed or were in severe trouble later
12 discovered to be Ponzi schemes or frauds.

13 A. Not that I'm aware of.

14 Q. So was Bear Stearns that failed a Ponzi scheme or fraud?

15 A. I don't believe so.

16 Q. Was Lehmann Brothers a Ponzi scheme or fraud?

17 A. I don't believe so.

18 Q. Was AIG a Ponzi scheme or fraud?

19 A. I don't believe so.

20 Q. Was Merrill Lynch a Ponzi scheme or fraud?

21 A. I don't believe.

22 Q. So was Washington Mutual, or WaMu, a Ponzi scheme or
23 fraud?

24 A. I don't believe so.

25 Q. Was Wachovia a Ponzi scheme or fraud?

1 A. I don't believe so.

2 Q. So if you had seen evidence of a bank or financial firm
3 in October 2008 that appeared to be experiencing some kind of
4 financial stress, did you immediately conclude that it must be
5 a Ponzi scheme or fraud?

6 A. No.

7 Q. Did you, in fact, see changes in the behavior of banks
8 and financial institutions that you and your clients dealt
9 with in October of 2008 as compared with a year or two
10 earlier?

11 A. Yes, I did.

12 Q. What did you observe in that regard?

13 A. The availability of credit was restricted. If you were
14 able to get credit, it was on substantially more restrictive
15 terms, and typically more capital requirements were required
16 in order to even obtain those loans from those lenders who
17 were lending at that time.

18 Q. Did you see and observe that banks and financial firms
19 were making a time -- an effort during that September and
20 October 2008 to hold on to cash or liquidity?

21 A. Yes.

22 Q. What were some of the ways that banks and financial firms
23 tried to preserve their cash and liquidity during that October
24 2008 time frame that you observed?

25 MR. DAY: Objection, Your Honor. Calls for expert

1 testimony, lack of foundation.

2 MR. BRYANT: I'm asking him what he personally
3 observed.

4 THE COURT: Overruled.

5 THE WITNESS: Could you repeat the question?

6 Q. (BY MR. BRYANT) What are the ways that the behavior that
7 you saw from banks and financial firms during that period
8 that -- in which they tried to preserve their cash and
9 liquidity that maybe they wouldn't have done a year or two
10 earlier?

11 A. Well, one, they wouldn't make loans, and they enforced
12 the loans that they had in place to the letter. So if they
13 could encourage early repayment of loans, they did that. And
14 they were very careful about advancing money on existing loans
15 without a review of compliance with loan covenants and
16 generally being careful about who their new clients were,
17 doing significant due diligence on them.

18 Q. Now, let's leave aside Stanford for a second. Did any of
19 those firms that you observed doing the best they could to
20 preserve their cash or liquidity at that time turn out to be
21 Ponzi schemes later?

22 A. No.

23 Q. And are most of those banks and financial firms still
24 around today?

25 A. Most of them. There have been a degree of consolidation.

1 Q. Okay. Now, aside from Gary Magness and Mango Five, did
2 you personally have other clients who were under severe
3 financial stress and pressure in September and October of
4 2008?

5 A. Yes.

6 Q. Without naming the names of your clients, did you have
7 other clients who were the subject of margin calls during that
8 period?

9 A. Yes.

10 Q. Now let's go back to earlier in 2008 before that
11 financial crisis period in the fall. As of March of 2008, how
12 long had you been a member of or advisor to the Mango Five
13 investment committee, roughly?

14 A. Just a little over a year.

15 Q. Okay. And during that year or so, had you gotten a good
16 general understanding of the investments of Mr. Magness and
17 his trusts and entities?

18 A. Yep. I was still learning them, but yes.

19 Q. Okay. Could you give the jury a general description of
20 how those investments and his finances were structured at that
21 time?

22 A. Well, typically in Mr. Magness' case, he would either use
23 direct investments where he personally or his trusts would
24 directly invest or through investment entities that he's
25 formed, family-controlled entities, like LLCs, that would

1 invest a pool of money on behalf of the family in a wide range
2 of investments.

3 Q. And what could you describe generally the range of
4 investments that he had at that time?

5 A. Well, the most significant one was his holding of Liberty
6 stock and affiliates' marketable securities, significant
7 investment in a data center called Fortrust, and involved in
8 private equity investments, and the investment in CDs with the
9 Stanford International Bank.

10 Q. Generally, what were the major topics of discussion in
11 the Mango Five investment committee in 2007 and early 2008 as
12 to the direction that his investments should move from where
13 they were?

14 A. Yeah. And I wanted -- also, there's a significant ranch
15 investment that was also part of it. But the -- because of
16 the sizable holdings of Liberty Media stock and affiliates,
17 there was a need to diversify strategically into other
18 investments so that an adverse event affecting Liberty would
19 not -- would be reduced by being invested in other assets to
20 balance off the risk exposure presented by that concentrated
21 position.

22 Q. And was Mr. Magness always eager to diversify out of his
23 Liberty Media stock during that period?

24 A. Mr. Magness took a dim view of diversification of the
25 Liberty stock.

1 Q. And from what you observed, did he have a belief in the
2 economic future of the Liberty companies?

3 A. Yeah. As I understood the dynamics of the Liberty
4 holding and his -- understanding John Malone's managing of
5 those entities and being an extraordinarily savvy manager of
6 those assets, I think Mr. Magness was very confident in the
7 management of the Liberty holdings and its future.

8 Q. From your observance -- from your observation, was there
9 also some emotional or family attachment that Gary Magness had
10 to the Liberty Media stockholdings?

11 A. Yes.

12 Q. What was that?

13 A. Well, I think that Gary, not unlike several of my clients
14 who received stock or have stock in family entities that --
15 that blossom and bloomed into other entities, they have an
16 affinity to retain that stock.

17 Q. Now, in general, was there also discussion in the Mango
18 Five investment committee in 2007 and early 2008 of a need for
19 Mr. Magness and his entities to reduce debt levels?

20 A. Yes.

21 Q. What discussion do you recall of that in general?

22 A. Well, the -- in general, given that the financial
23 environment was changing, it was clear that debt reduction
24 might be a good thing to do to avoid the potential for future
25 margin calls.

1 Q. And, in general, was the goal of reducing the Magness
2 debt levels actually accomplished before the financial crisis
3 hit in September and October of 2008?

4 A. Only in part.

5 Q. In that period, did you -- you mentioned that you were
6 aware of Mr. Magness' investments in CDs issued by Stanford
7 International Bank?

8 A. Yes.

9 Q. Did you have any prior relationship with or knowledge of
10 Stanford or Stanford International Bank before you went on the
11 Mango Five investment committee?

12 A. I did not.

13 Q. Now, did there come a time in the first half of 2008 when
14 the Mango Five investment committee wanted to learn more about
15 the Stanford International Bank and the Stanford CDs that the
16 Magness entities owned?

17 A. Yes.

18 Q. Do you recall a meeting of the investment committee when
19 the president of Stanford International Bank, Juan Rodriguez,
20 addressed the committee?

21 A. Yes.

22 Q. Okay. Let's look at Plaintiff's Exhibit 62. And the
23 first page is an agenda. Do you generally recognize that
24 first page?

25 A. Yes.

1 Q. Okay. Let's look on to the second page. Is this a
2 meeting in which you personally participated?

3 A. Yes, by telephone.

4 Q. Okay. Where were you physically at the time?

5 A. I was at my law offices in 100 West Liberty Street, Reno,
6 Nevada.

7 Q. And where were the other members of the committee
8 physically located at the time?

9 A. I understand them to be at the Wynn resort in Las Vegas,
10 Nevada.

11 Q. And what was your understanding as to where Juan
12 Rodriguez, the president of Stanford International Bank, was
13 located during the meeting?

14 A. I believe he called in from Antigua.

15 Q. Now, as that meeting went on, did you personally write
16 down handwritten notes of what occurred during the meeting
17 that you thought was a significant topic?

18 A. Yeah. Interesting or noteworthy, yes.

19 Q. Okay. We'll look at those in a second. Now, according
20 to the minutes, when did that meeting on March 6, 2008 begin?

21 A. It began at 10:45.

22 Q. And according to those minutes, when did it end?

23 A. I think that might be on the next page.

24 Q. I believe it is, or the last page.

25 A. Yeah, or the last. The minutes indicate 12:20 p.m.,

1 Pacific Standard Time.

2 Q. So is that consistent with your recollection it was
3 roughly an hour-and-a-half meeting?

4 A. That's approximately correct.

5 Q. And about, again, roughly how much that meeting was taken
6 up with the discussion of the Stanford CDs with Mr. Rodriguez?

7 A. I would estimate about half the time.

8 Q. Okay. Now, looking at the portion of Plaintiff's Exhibit
9 62 that describes that discussion, I believe it's paragraph 5
10 on the second page of PX 62, that looks like there's just
11 roughly a couple of paragraphs, a little more, of discussion.

12 Is that a summary of what you -- what you think was about
13 a 30-, 45-minute discussion?

14 A. Yeah. I think a general summary, yes.

15 Q. Okay. So is -- is what's shown in those minutes a full
16 description of the discussion that occurred on that occasion?

17 A. In a general context, yes.

18 Q. Okay. During that discussion that involved Mr.
19 Rodriguez, was it just a one-way presentation by Mr. Rodriguez
20 or was there a lot of discussion and questions and answers
21 going back and forth?

22 A. As I recall, he did an introduction, and then there was
23 question and answers or question-and-answer session after some
24 initial discussion and presentation by him.

25 Q. Okay. Let's go to your handwritten notes, which is PX

1 143, and looks like you took four different pages of notes
2 during that meeting. Is that consistent with your
3 recollection?

4 A. I think that looks correct, yes.

5 Q. Okay. I know you don't have a paper copy in front of
6 you, but let's see if we can get the portion of the -- your
7 notes that pertain to the discussion with Mr. Rodriguez. I
8 believe that begins on the second page.

9 Let's see if we can blow up that part and --

10 A. That's perfect. Thank you.

11 Q. Your handwriting is challenging for me, so I would
12 like --

13 A. My mother wished I was a doctor.

14 Q. So I would like for you, if you could, to do your best to
15 read to the jury what you wrote regarding that discussion with
16 Mr. Rodriguez on March 6th, 2008.

17 A. Interview with Juan Rodriguez, president of Stanford
18 International Bank. President, 27 years, Scotia Bank of
19 Boston. 16 years with Stanford, Antigua, Miami, International
20 Bank. Specialty private bank, Antigua, and low tax
21 jurisdiction. Charter and license for banking, international
22 private banking. BOD. (B), I believe. (F)(4). And the last
23 one I can't make out. FSC, Antigua.

24 I don't -- so -- yeah, hold it. Okay. Great. Let's
25 see. I still can't make -- Country. It's a constitutional

1 monarchy. It's a British monarchy, so Queen Elizabeth is --
2 the Queen of England is the monarch. The representative
3 government is a governor general who -- and it looks like --
4 again, I can't make that out. I apologize. Parliament. And
5 it looks like they were elected in '04. Peaceful election.

6 Primarily commercial, I would -- there's an International
7 Business Act and meets B-A-S-L, BASL 1.

8 Q. What is BASL 1 mean to you?

9 A. It means to me it's an international compact with
10 participating countries with regard to qualifications in
11 international transactions and that sort of thing generally.
12 I'm not a BASL expert by any stretch.

13 Q. Okay. Please continue.

14 A. Two locations in Antigua and Montreal, Canada. Eleven
15 other countries. Affiliated group. Enhanced fixed income
16 relationships. 136 clients. 7.2 billion in total assets.
17 Investment portfolio versus loan management. Not commercial
18 accounts. Swiss bank model. Investment activities.

19 Q. Okay. Let's look at the next page of the exhibit.

20 A. Yeah.

21 Q. Did this also pertain to the discussion with Mr.
22 Rodriguez?

23 A. I believe it did, yes.

24 Q. Okay. Could you please continue and do your best to --

25 A. 24 SCM. Money managers. Toronto, Sogen, Credit Suisse.

1 Investments well balanced, globally diversified. 10 to 20
2 percent in cash. 17 percent fixed income. 70 percent of the
3 fixed income -- well, 70 percent investment grade paper, 50
4 percent portfolio on equities, and 20 percent precious metals.

5 The asset classes were value, growth, small cap, large
6 cap, leverage at 15 percent, economic sectors, currency, and
7 one is U.S., and I can't make out the other two legs there.

8 Geographic diversity. Stanford Financial Group is
9 management of portfolio. Memphis, Tupelo, I believe St.
10 Croix, and Zurich. Hedge fund and regulation portfolio. No
11 insurance requirement. Overlaid. Cash not invested. Zero
12 taxation. SIPC. Qualified bank exceeds local ceiling.
13 Insurance coverage, capital requirements. DO insurance, EO
14 insurance. 17 percent concentration. Custody. Five percent
15 in capital to total assets. 12. 60 percent U.S. dollars, 53
16 percent BOD 20 basis -- 200 basis point privilege. .4 to 69
17 million. Venezuela, geopolitical risk, petroleum Caribbean,
18 cheap oil in region.

19 Q. And does that conclude your handwritten notes -- let's
20 look at the next page.

21 A. If you could go to the next page, I can --

22 Q. On just of the portion of the meeting where Mr. Rodriguez
23 was present.

24 A. Yeah. I believe it ended right above the status of
25 Fortrust, so that --

1 Q. So if you can go ahead and read that portion on the
2 fourth page of the notes that relates to Mr. Rodriguez's
3 discussion with the committee.

4 A. Yes. Question Brazil own real estate. Repatriation
5 profits. Currency controls, free no levies, exempt -- and I
6 can't -- Matthew Bean. Subprime and indirectly holding of
7 bank financials, less than 20 percent, move out 200 financial.
8 Trouble spots is healthcare. CD rates 9.11 rate. Five years.
9 11.07 compounded. \$100 million. A question, I think receipt
10 CD is as collateral.

11 Q. Now -- thank you very much. You made these notes almost
12 nine years ago. Do you have much detailed recollection of the
13 specific discussion at that time?

14 A. Just a general recollection, yes.

15 Q. Okay. Now, is it fair to say that your notes provide a
16 lot more detail about the discussion of the committee with Mr.
17 Rodriguez than the official minutes do?

18 A. Yes.

19 Q. Does that surprise you?

20 A. No.

21 Q. Why not?

22 A. Well, typically when you craft minutes, they're of -- you
23 try to get the general discussion. Otherwise, the minutes
24 were -- you might as well take a transcript. So it's
25 a -- they're -- minutes are typically summaries of what goes

1 on, and principally records motions or resolutions either
2 undertaken by the board or committee.

3 Q. Now, as a result of that presentation that you heard on
4 the telephone on March 6, 2008, were you personally suspicious
5 that Stanford International Bank was or might be a Ponzi
6 scheme?

7 A. No.

8 Q. Why not?

9 A. Well, I thought the presentation was credible by Mr.
10 Rodriguez. He was able to respond to a number -- the
11 questions that were posited by the members of the committee.
12 And we had Tom Espy, who was a representative of an affiliate,
13 at the meeting. So I didn't -- you are -- I was comfortable
14 that we got a fair presentation and he was not evasive with
15 the answer -- with the questions or -- we posited to him.

16 Q. Now, was the quality or detail level of that presentation
17 by Mr. Rodriguez significantly different than that in
18 presentations that you've been a party to before and since
19 then from investment firms?

20 A. No. It's more of a kind of an introductory client
21 briefing of -- of a general nature. No.

22 Q. Now, let's move on back to the period of October 2008.
23 Do you recall whether in October 2008 Mango Five and the
24 Magness entities were facing themselves what you would regard
25 as a financial crisis?

1 A. Yeah, I generally remember that.

2 Q. Okay. Let's look at PX 73. Do you recognize those as
3 the minutes of an investment committee meeting of Mango Five
4 that occurred October 1st of 2008?

5 A. Yes.

6 Q. Okay. I would like -- were you a participant in that
7 meeting?

8 A. I was -- I believe I attended by telephone call.

9 Q. Okay. Looking down at paragraph 3 of the first page of
10 PX 73, do you see that kind of where the debt level of the
11 Magness entities stood as of October 1st, 2008?

12 A. Ms. Dokken reported that the debt level was \$283,651,997
13 [sic].

14 Q. And as you sat there listening on the phone of that
15 meeting on October 1st, was that right in the middle of the
16 financial crisis, the most severe one that you've been an
17 attorney for?

18 A. Yeah. The market was in decline, steep decline, during
19 that period of time, and so that was the time we were -- at
20 the time of our meeting.

21 Q. Now, you see in paragraph 2 that about the middle where
22 it begins Mr. Magness?

23 A. Yes.

24 Q. Do you recall any discussion in that meeting regarding
25 Mr. Magness' desire or determination to hold on to the Liberty

1 Media stock despite the stock market conditions that occurred
2 at that time?

3 A. Yes. I believe he thought it was undervalued.

4 MR. DAY: Objection. Speculation.

5 THE COURT: Overruled.

6 Q. (BY MR. BRYANT) Now, during the rest of October of 2008,
7 after that meeting, were you personally involved in any of the
8 actions that Gary Magness or the Magness entities took to deal
9 with that crisis that they were involved in?

10 A. No.

11 Q. Did you have an understanding as a result of information
12 that you received at a later time that they had faced margin
13 calls during that time period?

14 A. Yes.

15 Q. And what did you understand would have been the adverse
16 consequences for Gary Magness and the entities had they not
17 been able to deal with the margin calls they faced during
18 October 2008?

19 A. It would have required the sale of the collateral -- the
20 stock that was collateralizing the margin.

21 Q. And would have -- did you understand that that would have
22 any significant tax consequences for Mr. Magness and the
23 entities?

24 A. Yes.

25 Q. What consequences would have been experienced?

1 A. My understanding was it was low basis stock, which meant
2 that any difference between what they ultimately sold the
3 stock for and the family's tax basis would trigger a capital
4 gain and a tax would ensue.

5 Q. Now, I understand you weren't personally involved in the
6 actions that occurred during that period, but were you advised
7 that the Magness entities had in fact been able to access over
8 \$80 million of cash from Stanford during October 2008?

9 A. Later in the year I became aware of that, yes.

10 Q. Based on everything that you learned later, including all
11 of your conversations with Mr. Magness, with anybody on the
12 Mango Five investment committee, all the way up into today, do
13 you have any reason to believe that those loans were taken out
14 from Stanford in October of 2008 for any other reason other
15 than an urgent need to meet margin calls and shore up
16 financial positions?

17 A. The primary --

18 MR. DAY: Objection, Your Honor. Calls for hearsay
19 and speculation.

20 THE COURT: Overruled.

21 THE WITNESS: I think the primary motivation was to
22 gain -- obtain cash to pay debt and get in a stronger cash
23 position.

24 Q. (BY MR. BRYANT) There's been discussion in this case
25 that getting the -- that the need to meet margin calls was

1 just a made-up excuse to get money out of Stanford in October
2 of 2008. Have you ever heard or seen anything that would tend
3 to support that?

4 A. I did not recollect anything in that regard.

5 Q. In all of your dealings with Gary Magness and the members
6 of the Mango Five investment committee before October of 2008,
7 during October of 2008, and after 2008 up to the present, have
8 you ever seen or heard anything that made you believe that
9 Gary Magness knew or believed Stanford was a Ponzi scheme in
10 October of 2008?

11 A. No.

12 Q. Now, let's look at Plaintiff's Exhibit 92. And this
13 refers to a meeting of the Mango Five investment committee
14 that occurred on December 5th, 2008. Let's look at the very
15 back page since there are multiple drafts of this document.

16 Do you see, based on the last page of Exhibit 92, that
17 these are the official minutes of that meeting?

18 A. Yeah. These are signed by Mr. Sutton.

19 Q. Okay. Now, do you recall participating in the meeting of
20 the Mango Five investment committee on December 5th, 2008?

21 A. Yes, I do.

22 Q. Did anything that you heard during that meeting suggest
23 to you that Gary Magness or anybody else at the meeting then
24 believed that Stanford was or might be a Ponzi scheme or
25 fraud?

1 A. No. They were insecure about the CDs. There was a
2 discussion about the CDs.

3 Q. Okay. We'll talk about that.

4 Do you recall any discussion whatsoever in the December
5 5th, 2008 meeting of the Mango Five investment committee about
6 the possibility that Stanford might be put into a receivership
7 sometime in the future?

8 A. I have no recollection.

9 Q. Okay. Did you make handwritten notes of that meeting
10 just as you did of the other meetings?

11 A. Yes, I did.

12 Q. Let's look at PX 292.

13 MR. DAY: Objection, Your Honor. This is not in
14 evidence.

15 MR. BRYANT: I'll offer it.

16 MR. DAY: Objection, Your Honor. Incomplete, Rule
17 403. May I approach to discuss?

18 THE COURT: No. What part is missing?

19 MR. DAY: Several parts of this document are missing
20 and blacked out.

21 THE COURT: Do you mean redacted?

22 MR. DAY: I do.

23 THE COURT: Is it just the redactions you are
24 concerned about?

25 MR. DAY: Yes, Your Honor.

1 THE COURT: I'll overrule the objection and admit
2 the exhibit, and you're welcome in cross to go into the
3 redactions. And if we need to complete them, we can do that
4 at that time.

5 MR. BRYANT: Okay. So let's -- so that's admitted?

6 THE COURT: The exhibit is admitted.

7 MR. BRYANT: Thank you, Your Honor.

8 Q. (BY MR. BRYANT) And, Mr. Armstrong, can you identify PX
9 292 as your handwriting?

10 A. Yes, it's my handwriting.

11 Q. Okay. I'd like for you to look at the second page of
12 your handwritten notes. Do you see the portion there that
13 refers to Stanford?

14 A. Okay. Yeah. Under Stanford International Bank, down
15 five to six percent for the year. No leverage. One billion
16 in cash, 480 million in additional capital.

17 Q. Looks like you underlined a portion of that. What did
18 you underline?

19 A. I underlined no leverage.

20 Q. Do you recall any other discussion of Stanford during
21 that meeting?

22 A. There may have been a little bit more, but I don't have a
23 specific recollection.

24 Q. Okay. I'd like for you to take the time to look at page
25 1 and page 2 of your notes, and then I'd like for you to tell

1 us whether or not there is any reference whatsoever to a
2 possible receivership or what might happen in the event of a
3 receivership in your handwritten notes.

4 A. I don't see any reference to receivership.

5 Q. Based on your practices in preparing those handwritten
6 notes, had there been any discussion of a receivership of
7 Stanford in that meeting, would you have recorded it?

8 A. Most likely I would have, yes.

9 Q. Now, there's been discussion of some draft official
10 minutes of this December 5th meeting that were prepared by Ray
11 Sutton at some point in time that mention a possible
12 receivership of Stanford. Do you personally recall seeing any
13 such drafts?

14 A. No.

15 Q. Given that the next meeting of the Magness Mango Five
16 investment committee was not until four months later in April
17 of 2009, when would you have first have seen or received any
18 draft official minutes for the December 5th meeting that had
19 been prepared by Mr. Sutton?

20 A. Generally we'd see them maybe a month to two weeks before
21 the next meeting.

22 Q. So for a meeting in April of 2009, about when would those
23 drafts have been prepared and circulated by Mr. Sutton?

24 A. I would say sometime around March, mid March.

25 Q. Of what year?

1 A. 2009.

2 Q. Was that time period after, there actually had been a
3 receivership created for Stanford because it had been
4 requested by the SEC.

5 A. My -- my understanding, yes.

6 Q. Now, do you recall any personal concern about the
7 possibility that Stanford was a Ponzi scheme or fraud at any
8 time before the SEC actually sued to get a receivership in
9 February of 2009?

10 A. No.

11 Q. Based on all your dealings with Gary Magness and the
12 Mango Five investment committee members, do you have any
13 reason to believe that they knew or believed Stanford was a
14 Ponzi scheme or fraud prior to the lawsuit being filed for a
15 receivership by the SEC in February in 2009?

16 A. No. I think they were deeply concerned about the bank,
17 but they never reference Ponzi scheme or fraud to me.

18 MR. BRYANT: I pass the witness.

19 THE COURT: Do you want to go until about 3:10 or do
20 you want to break now?

21 MR. DAY: Why don't we break now, Your Honor.

22 THE COURT: All right. We'll take our afternoon
23 break now and see you back in 20 minutes.

24 (Whereupon, the jury left the courtroom.)

25 THE COURT: Anything else?

1 MR. SADLER: I just have one quick question for Your
2 Honor. Based on Your Honor's rulings during Mr. Armstrong's
3 direct, do I now understand that witnesses are going to be
4 free to testify to what other people think or believe or know
5 about other things? That's -- that's my interpretation of the
6 Court's ruling so I just wanted to be clear about that.

7 THE COURT: If they were there and heard things that
8 allowed them to conclude what another person was thinking,
9 that's okay. If it's psychic powers, I don't think so.

10 MR. SADLER: So the difference -- I'm not
11 questioning, Your Honor. I'm just trying to understand. It
12 sounds like the difference is a witness has to be present,
13 hear somebody say something, and then that can be the basis
14 for the opinion I think Fred knew this or I think Fred thought
15 that. Is that what you're telling us, Your Honor?

16 THE COURT: What I'm telling you is there has to be
17 a foundation for the testimony.

18 MR. SADLER: I understand now. Thank you, Your
19 Honor.

20 THE COURT: Okay?

21 MR. SADLER: Yes, sir.

22 THE COURT: Anything else?

23 MR. SADLER: No, sir.

24 THE COURT: You-all are good? All right. We'll see
25 you in 20 minutes.

1 (Brief recess.)

2 THE COURT: All set?

3 MR. DAY: Yes, Your Honor.

4 THE COURT: All right. Let's bring them in.

5 (Whereupon, the jury entered the courtroom.)

6 THE COURT: Be seated.

7 The Receiver may proceed.

8 MR. DAY: Thank you, Your Honor.

9 CROSS EXAMINATION

10 By Mr. Day:

11 Q. Hi, Mr. Armstrong.

12 A. Good morning.

13 Q. How are you doing today?

14 A. I am doing fine.

15 Q. I want to start off with a preliminary matter your
16 counsel didn't get into. You mentioned you've been the
17 attorney for Mr. Magness and his company for several years.
18 Right?

19 A. Yeah. In the Nevada law matters, right.

20 Q. Right. And that goes back to, I think you said, 2006 or
21 so, maybe 2007?

22 A. It's right at the end of 2006.

23 Q. Okay. You don't do that work for free, I'm sure. Right?

24 A. Uh-huh. That's correct.

25 Q. So what is your hourly rate?

1 A. Currently it's \$525 an hour.

2 Q. Okay. Is that how much you're being paid to be here
3 today?

4 A. Yes.

5 Q. Okay. Does that include your travel time as well to get
6 here?

7 A. Yes.

8 Q. All right. And then going back to 2006 with Mr. Magness,
9 how much would you say you've been paid to be his attorney?

10 A. From my role, probably 20-, 25,000.

11 Q. Now, you mentioned you're the president of Mango Five.
12 Correct?

13 A. Yes.

14 Q. But your duties and responsibilities are actually limited
15 by contract, aren't they?

16 A. Yes.

17 Q. And you are also the trust officer for Mango Five?

18 A. Yes.

19 Q. And I think that means that you're there to help Mango
20 Five make sure it's following Nevada trust law. Right?

21 A. Generally speaking, yes.

22 Q. Now, you testified here earlier that Mr. Magness had
23 investments. Right?

24 A. Yes.

25 Q. They performed certain ways up or down. Right?

1 A. Yes.

2 Q. You testified about his strategies with respect to
3 investments?

4 A. Yes.

5 Q. And what he thought was good or not good?

6 A. Yes.

7 Q. But you actually agree with me that you were specifically
8 not involved with investments or related activities, so your
9 role with Mango Five was limited. Right?

10 A. On the day-to-day, yes. They put me on the investment
11 committee, but my day-to-day role was very limited.

12 Q. You were -- your role specifically excluded investments
13 and related activities. Right?

14 A. Yes.

15 Q. So it did not come within your review to look at Magness
16 Trust's existing Stanford International Bank CDs and determine
17 what that was all about. Right?

18 A. Generally, yes.

19 Q. And Mr. Magness did not take counsel from you because you
20 had a very limited role and he didn't know you very well.
21 Right?

22 A. Yes.

23 Q. Now, prior to the formation of Mango Five, you did not
24 know Mr. Magness and you never met him.

25 A. Yes.

1 Q. And you're president, but you're not a board member, are
2 you?

3 A. No.

4 Q. In fact, you have never provided counsel to Mr. Magness
5 concerning the SIB CDs. Correct?

6 A. No.

7 Q. First time you ever heard about Stanford International
8 Bank CDs was at the Mango Five meetings?

9 A. Correct.

10 Q. And you attended most of those meetings via phone as
11 opposed to being in person.

12 A. Yes.

13 Q. Okay. I just want to go through some of the ones that
14 the jury and we have seen during trial so far.

15 MR. DAY: So, Mr. Jarrett, if you could pull up
16 Plaintiff's Exhibit 134.

17 Q. (BY MR. DAY) You'll see these are from October 1st,
18 2007. Correct?

19 A. Yes.

20 Q. All right. Let's see. There's your name right there.
21 It looks like at this meeting you participated via telephone
22 call. Right?

23 A. Yes.

24 Q. Okay. Let's look at another set of minutes from that
25 same day, Plaintiff's Exhibit 133.

1 MR. DAY: You can go to the next page, Mr. Jarrett.

2 Q. (BY MR. DAY) You see this document, Mr. Armstrong?

3 A. Yes.

4 Q. And I believe if we blow up that first paragraph? Let me
5 just read it real quick. A lot of names. Oh, there you are.

6 Mr. Armstrong participated by a conference call, right --

7 A. Yes.

8 Q. -- which makes sense. It was the same day?

9 A. Right.

10 Q. Let's look at March 6, 2008, Plaintiff's Exhibit 62. And
11 you recognize this is the one where Mr. Tolentino, also
12 Rodriguez -- same guy, right?

13 A. Yes.

14 Q. -- presented information concerning the SIB CDs?

15 A. Yes.

16 MR. DAY: If you can go to the next page, Mr.
17 Jarrett, and blow up that top paragraph.

18 Q. (BY MR. DAY) Mr. Armstrong participated by conference
19 call. So we see a pattern here. Right?

20 A. Yes.

21 Q. And let's look at December 5th just to make sure since
22 that came up in your direct testimony. That's Plaintiff's
23 Exhibit 92.

24 All right. Same paragraph. Participating by telephone
25 was Mr. Armstrong.

1 A. Yes.

2 Q. And I believe if you go to Plaintiff's Exhibit 114, which
3 didn't come up in your direct but it's about this same topic,
4 go to the next page here, we'll see that you participated by
5 telephone. Right?

6 A. Yes.

7 Q. So of all of these minutes we've seen so far, you've just
8 dialed in.

9 A. Attended by phone.

10 Q. You dialed numbers on the phone and dialed in?

11 A. Yes.

12 Q. Okay.

13 MR. DAY: And, Mr. Jarrett, could you go to the next
14 page? If you could blow up from 3 to here.

15 Q. (BY MR. DAY) So in this report of Stanford, I see right
16 after it, you left the meeting. Right?

17 A. Yes.

18 Q. So you hung up the phone?

19 A. Yes.

20 Q. And the meeting continued without you?

21 A. Yes, I was in Augusta, Georgia.

22 Q. And so you wouldn't know from your personal knowledge
23 anything that happened after you left. Right?

24 A. That is correct.

25 Q. And so since you attended all of these meetings via

1 phone, if there were any meetings that happened before you
2 dialed in or after you dialed in or after you excused
3 yourself, you wouldn't know anything about that. Right?

4 A. Correct.

5 Q. Now, you mentioned in your testimony that you had heard
6 of Ponzi schemes before. Right?

7 A. Yes.

8 Q. And, in fact, you had heard of Ponzi schemes before the
9 Madoff scandal even hit the news. Right?

10 A. Yes.

11 Q. So you knew to keep an eye out for Ponzi schemes, fraud,
12 and crime in your role with Mango Five.

13 A. Generally. You need to be aware of the activities, yes.

14 Q. You knew to keep an eye out for that stuff, didn't you?

15 A. Well, in my role as -- in my role at Mango Five,
16 typically much of the investment activity was done through the
17 family office.

18 Q. So was it a part of your role at Mango Five to keep an
19 eye out for Ponzi schemes, fraud, and crime?

20 A. You know, if I saw it, I would have raised it.

21 Q. I'll ask you one more time.

22 A. Okay.

23 Q. Was it part of your role to keep an eye out for Ponzi
24 schemes, fraud, or crime?

25 A. On my contract I am limited to basically doing trust

1 administrative services in Nevada as a trust officer and
2 making sure they are complying Nevada law.

3 Q. Do you remember we met at your deposition?

4 A. Yes.

5 Q. Yes. And at that deposition this topic came up. Right?

6 A. Yes.

7 Q. And you swore to tell the truth then?

8 A. Yes.

9 Q. As you did today?

10 A. Yes.

11 Q. Okay. So if you could please turn to the notebook in
12 front of you, which has your transcript.

13 MR. DAY: And, Mr. Jarrett, if you could pull up
14 page 27.

15 Q. (BY MR. DAY) And I'll wait, Mr. Armstrong, until you get
16 to the page?

17 A. I'm at the page. Thank you.

18 MR. DAY: I want to start at line 15, so if you
19 could blow up that bottom half.

20 Q. (BY MR. DAY) Okay. So going back to my questions, "In
21 your role as fiduciary, trust officer, president, member and
22 advisor to Mango Five, you knew it was important to do
23 appropriate due diligence. Right?" And you said --

24 A. "Yes."

25 Q. Let me finish. "Well, I believe it's important to do

1 appropriate due diligence when you're operating a company."

2 And I asked you, "And so you knew to keep an eye open for
3 potential Ponzi schemes. Right?"

4 And then your answer was, "Yes."

5 Right?

6 A. I don't -- I mean, it's in my DNA to -- if there's
7 something wrong, I'll raise it.

8 Q. So you knew to keep an eye out for Ponzi schemes?

9 A. Yes.

10 Q. So you knew to keep an eye out for fraud. Right?

11 A. Yes.

12 Q. And you knew to keep an eye out for crime. Right?

13 A. Yes.

14 Q. Now, you understand that a Ponzi schemes starts out with
15 a group of investors that are promised larger returns and they
16 get paid back with new investors' money. Right?

17 A. Yes.

18 Q. And eventually the Ponzi scheme house of cards has to
19 fall.

20 A. Yes.

21 Q. Over the last 20 to 25 years in your area of Nevada,
22 there have been about five Ponzi schemes that have been
23 home-grown there. Right?

24 A. That's what I recall, yes.

25 Q. And there's been a significant uptick in the number of

1 Ponzi schemes since about 2006. Right?

2 A. In Nevada or just --

3 Q. From your recollection.

4 A. Yes.

5 Q. And the Ponzi schemes in Nevada generally involved
6 investors in deeds of trusts with higher interest rates?

7 A. Yes.

8 Q. And you were aware of all of those Ponzi schemes in
9 Nevada. Correct?

10 A. I was aware of the Ponzi -- I don't know if I was aware
11 of all of the Ponzi schemes.

12 Q. But you were aware of several in Nevada.

13 A. Yes.

14 Q. So, to you, what the Stanford International Bank CDs
15 started to look like were those real estate investments in
16 Nevada that turned out to be frauds or Ponzi schemes. Right?

17 A. At what time? Is there -- could you rephrase the
18 question?

19 Q. To you, the Stanford International Bank CDs -- you know
20 what I'm talking about, the CDs. Right?

21 A. Yes.

22 Q. Over time they started to look more like those Ponzi
23 schemes with deeds of trusts that turned out to be frauds or
24 Ponzi schemes that you already knew about.

25 A. When you say over time, that's kind of -- I mean,

1 obviously today we know that it was a Ponzi scheme. And until
2 February of 2009, I wasn't aware -- I was concerned but not
3 aware that it was -- there was allegations that it was a Ponzi
4 scheme.

5 Q. So I just want to make sure I understand your testimony
6 correctly. Is it your testimony to the jury today that these
7 Stanford International Bank CDs did not start to look like the
8 real estate investments in Nevada that turned out to be frauds
9 and Ponzi schemes?

10 A. Over -- when you say over time, you -- it was -- it was
11 not a gradual thing. We got specific facts at specific points
12 in time that created a concern about the Stanford CDs.

13 Q. So you got specific facts at a specific point in time
14 that made you concerned about the CDs. Right? I think I just
15 heard that?

16 A. I think that's a correct characterization.

17 Q. And so the Stanford International Bank CDs started to
18 look like those real estate investments in Nevada that turned
19 out to be frauds and Ponzi schemes.

20 A. They ultimately, economically, they -- yes, they had the
21 same result.

22 Q. Now, you're aware that Stanford International Bank
23 marketed the CD as if it were an actual certificate of
24 deposit. Correct?

25 A. Yes.

1 Q. But you found out that the Stanford International Bank CD
2 was not what was commonly understood to be a CD. Right?

3 A. Yes.

4 Q. And that was because the underlying investments were
5 supposedly in equities as opposed to loans. Right?

6 A. A combination of equity and debt but not commercial
7 loans.

8 Q. It wasn't like a commercial bank, was it?

9 A. No.

10 Q. And that caused you concern, didn't it?

11 A. Yeah. It recharacterized the character of the
12 investment.

13 Q. It caused you concern. Right?

14 A. Yes.

15 Q. And because -- that's because to the extent a portfolio
16 is in stocks or bonds, if there's a dip in the market, then
17 that creates exposure. Right?

18 A. Yes. But commercial loans can do the same thing if
19 there's a dip in the real estate market or particular
20 business.

21 Q. I understand that, but my focus is on what we're talking
22 about here, which is stocks and bonds. If a company is
23 invested in stocks and bonds instead of the loans like a
24 normal commercial bank, there's a dip, that can create
25 exposure. Right?

1 A. Yes.

2 Q. And you're aware that Stanford International Bank
3 marketed its CDs in comparison to United States CDs. Right?

4 A. Yes.

5 Q. But once you opened the hood and got under there with
6 respect to SIB, and you saw what SIB said its CD was,
7 comparing United States CDs to Stanford International Bank CDs
8 was like comparing apples and oranges, wasn't it?

9 A. Yes.

10 Q. All right. Let's go back to Plaintiff's Exhibit 62,
11 please. We've already talked about these, but before this
12 call with Mr. Rodriguez-Tolentino, you had questions about the
13 safety of the Stanford International Bank CDs.

14 A. They told me that they had made an investment. So, yeah,
15 I didn't know enough about them.

16 Q. So you had concerns about the Stanford International Bank
17 CDs prior to this call?

18 A. I was -- it sounded like an investment I needed to think
19 more about, yes. I don't know if I was concerned.

20 Q. So is your testimony today that you were not concerned?

21 A. Well, I mean, I just am skeptical on investments, so I
22 would say I would have skepticism.

23 Q. So you were skeptical of the Stanford International Bank
24 CD?

25 A. Skeptical of a lot of things.

1 Q. Were you skeptical about the Stanford International Bank
2 CD?

3 A. I really didn't know much about the Stanford
4 International Bank. I was just recently added or associated
5 with the company, so I really was at a fairly general
6 knowledge base.

7 Q. So you were skeptical about it, weren't you?

8 A. I am skeptical about everything, yes.

9 Q. You were concerned about that Stanford International Bank
10 CD, weren't you?

11 A. I was not -- I don't believe I was concerned.

12 Q. Okay. Let's look at your deposition one more time,
13 Plaintiff's exhibit -- not Plaintiff's exhibit. Turn to page
14 250, please. Let me know when you're there, Mr. Armstrong.

15 A. Okay. I'm there.

16 Q. All right. Let's start at line 21.

17 A. Yes.

18 Q. And I'm just going to read this and let me know if I get
19 anything wrong. And like we've already will talked about
20 today, Mr. Tolentino attended via phone. Right?

21 A. Yes.

22 Q. And your answer was, "Correct."

23 And it specifically acknowledges that he was asked to
24 report on the safety of certificates of deposit -- and we'll
25 flip to the next page -- purchased through SIB. Right?

1 And the answer was, "Uh-huh, yes."

2 Right?

3 A. They were asked to report on the safety of the
4 certificate of deposit, and my answer was, "Uh-huh, yes."

5 Q. And you had questions about the safety of the SIB CDs
6 before this call. Correct?

7 A. I don't know if I did, but maybe members of Mango did.

8 Q. And it even says, "I think we were investigating."
9 Right?

10 MR. DAY: You can take that down, Mr. Jarrett.

11 Q. (BY MR. DAY) You were never presented with actual SIB
12 performance numbers that were something you could rely upon
13 completely, were you?

14 A. No.

15 Q. And that was concerning to you, wasn't it?

16 A. Yeah. We -- we had basically marketing materials and --
17 that were provided to us. In fact, you provided them to me.

18 Q. And you said that you were never provided with actual SIB
19 performance numbers that you could not rely upon completely.
20 You just said that?

21 A. Other than what was reported by Tom Espy during the
22 course of a meeting with Mango Five Family, Inc.

23 Q. And you would agree with me that that was concerning.
24 Right?

25 A. Excuse me?

1 Q. You would agree with me that that was concerning. Right?

2 A. Yes.

3 Q. And, in fact, you perceived a conceptual difficulty when
4 you were presented with SIB information saying the CD was like
5 a bond, but the underlying portfolio was something different.
6 Right?

7 A. Yeah. I -- I had to gain understanding of it, yes.

8 Q. And it was that conceptual difficulty that was part of
9 the conversation that Mango Five had with Mr. Tolentino in
10 March 2008. Right?

11 A. Yes.

12 Q. Because you wanted to get under the hood and see how is
13 it SIB is generating these purported returns. Right?

14 A. Yes.

15 Q. Now, I believe you testified earlier that, and tell me if
16 I'm wrong, that after the call in March 2008 with SIB's
17 president, you felt more comfortable with the bank?

18 A. Well, we got more information about what was under the
19 hood, yes.

20 Q. So you did feel more comfortable with the bank?

21 A. A little bit, yes.

22 Q. But you've told me before that after the call, you had an
23 increased awareness of risk. Right?

24 A. Yes.

25 Q. Absolutely you did?

1 A. Yes.

2 Q. And that increased awareness of risk caused you to be
3 concerned about the SIB CDs. Right?

4 A. Well, we now knew what kind of investment it was. I
5 was -- thought initially it was a conventional CD.

6 Q. So you had an increased awareness of risk.

7 A. Yes. And recalibrate what the type of investment it was,
8 yes.

9 Q. And that meant you were more concerned about the SIB CD.

10 A. It was more risky -- it was a more risky investment than
11 a conventional CD, yes.

12 Q. So, yes, you were concerned?

13 A. Well, I was concerned about risk, yes.

14 MR. DAY: And if you could put up, Mr. Jarrett,
15 Plaintiff's Exhibit 143 --

16 Q. (BY MR. DAY) -- which were your March 2008 handwritten
17 notes. We're just going to flip through this one page at a
18 time. I'm not going to make you read the whole thing.

19 So we can see all the text there. Correct? There's
20 nothing hiding, any text.

21 A. No.

22 Q. Okay.

23 MR. DAY: Can you go to the next page, please?

24 Q. (BY MR. DAY) Same thing here. Right?

25 A. Yes.

1 Q. You, in fact, read much of this toward the bottom half?

2 A. Yes.

3 MR. DAY: And go to the next page, please.

4 Q. (BY MR. DAY) Again, we can see all your handwriting.
5 Correct?

6 A. Yes.

7 MR. DAY: The final page, please.

8 Q. (BY MR. DAY) And this is the last page, and we can read
9 all of this?

10 A. Generally, yes.

11 Q. There's nothing obscuring the text. Correct?

12 A. No.

13 MR. DAY: And let's go back to the second page, Mr.
14 Jarrett. Right there at the bottom, this paragraph.

15 Q. (BY MR. DAY) Now, you saw on Plaintiff's Exhibit 62 the
16 phrase Swiss bank model in quotes. Right?

17 A. Yes.

18 Q. And there it is right there in your handwritten notes.
19 Right?

20 A. Yes.

21 Q. Now, you agree with me that Mr. Rodriguez-Tolentino just
22 threw this phrase out at you.

23 A. Yes.

24 Q. And to you Swiss bank model means secret and not like a
25 commercial bank. Right?

1 A. Yes.

2 Q. So let's go to Plaintiff's Exhibit 62 one more time.

3 This is the typed minutes by Mr. Sutton. Correct?

4 MR. DAY: Next page, please, Mr. Jarrett.

5 THE WITNESS: Yes.

6 MR. DAY: Let's go to section 5, I believe, on the
7 next page and grab all three paragraphs there.

8 Q. (BY MR. DAY) We've already seen this during trial, but I
9 want to focus on the last paragraph.

10 So after you heard about Swiss bank model, the Mango Five
11 investment committee basically just said, Gary, you can decide
12 what to do with this CD. Right?

13 A. Yeah. They delegated authority to Mr. Magness, yes.

14 Q. Anything about investments or withdrawals became: Mr.
15 Magness, it's up to you. Right?

16 A. Yes.

17 Q. Let's talk about December 5th, 2008. Do you remember a
18 meeting happened that day? Right?

19 A. Yes.

20 Q. And you testified on direct that, gosh, these meetings
21 were eight, nine years ago. Right?

22 A. They occurred eight or nine years ago, yes.

23 Q. Right. And so your memory today isn't as good as maybe
24 what the minutes say?

25 A. I think that would be a fair characterization.

1 Q. But you testified on direct examination that you didn't
2 recall Mr. Sutton saying anything about a receivership or
3 owing any money to a receiver. Right?

4 A. No, I don't recall that. Yeah. Today.

5 Q. But it's been eight or nine years?

6 A. It's been nine years, yes.

7 Q. And I think you also testified that sometimes there's
8 conversations that happen before you even dial into the
9 meetings?

10 A. I think that would be -- I would imagine that to be the
11 case, but I don't know that to be.

12 Q. You wouldn't know what was said at those. Right?

13 A. No, I would not know that.

14 Q. And, likewise, if you dial out or leave early, you
15 wouldn't know about anything that was said after that. Right?

16 A. That's correct, yes.

17 Q. So your recollection of whether Mr. Sutton said anything
18 about a receiver or owing a receiver money is limited by the
19 amount of years past. Right?

20 A. Yes.

21 Q. The fact that you were not a secretary of this
22 organization?

23 A. Yes.

24 Q. It was not your job to take notes? Correct?

25 A. Yes.

1 Q. And you may not have even been there when the statements
2 were said.

3 A. Possibly, yes.

4 Q. Let's look at your handwritten notes from December of
5 2008.

6 MR. DAY: Plaintiff's Exhibit 292, please.

7 Q. (BY MR. DAY) I see something different on this page.
8 And do you agree with me it is this big black box?

9 A. Yes.

10 Q. And before you came to testify today, did you read what
11 was behind that big black box?

12 A. I believe I did, yes.

13 Q. You did.

14 A. Yes.

15 Q. Did you testify today based upon what was behind that
16 black box?

17 A. No, I don't believe I did.

18 Q. Are you aware that this is the version that was produced
19 to the Receiver where we don't get to see what's behind that?

20 A. I understand it was a redaction, yes.

21 Q. And you're aware that the jury can't see what's behind
22 that box, either.

23 A. That is correct, yes.

24 Q. The next page, I see two more black boxes. Do you?

25 A. Yes.

1 MR. DAY: Let's blow up from that top box to that
2 bottom box.

3 Q. (BY MR. DAY) I see the word Stanford International Bank
4 in between those boxes. Do you?

5 A. I do, yes.

6 Q. It talks about cash that it has and additional capital.
7 Right?

8 A. Yes.

9 Q. And it says it's down five to six percent. Right?

10 A. Yes.

11 Q. But we can't read behind these boxes, can we?

12 A. No.

13 Q. We don't know what's behind there, do we?

14 A. You don't know, yes.

15 Q. I don't know.

16 A. That's correct.

17 Q. The jury doesn't know, either, do they?

18 A. That's correct.

19 MR. DAY: Pass the witness.

20 THE COURT: All right. I think I need to give a
21 short explanation here.

22 The parties exchange information before trial so that we
23 don't have the fun Perry Mason moment of ah-ha where the
24 witness breaks down and confesses. In real life it doesn't
25 work that way. They exchange information ahead of time,

1 including documents.

2 Under the law, one side is not entitled to receive
3 attorney/client communications from the other side. So you're
4 entitled to talk with your attorney and be candid and the
5 attorney can be candid back and not run the risk that it will
6 show up on a big screen in the middle of a trial. So there's
7 what's called an attorney/client privilege.

8 Sometimes a person who is an attorney may act in a
9 business capacity where they're serving a business function,
10 for example, as the president of a company. They may also
11 give legal advice. They can have two different hats. So it's
12 not unusual in circumstances like this for a party to take the
13 position that "these statements were made in my capacity as
14 the president of a company, these statements were made in my
15 capacity as offering legal advice." And when that happens,
16 it's customary for them, if the document reflects both of
17 those, to black out the part that they believe is legal advice
18 and to produce the rest of it. It's called redaction.

19 So it's not unusual in litigation like this when you have
20 a person who has both a business capacity as president and
21 also as a lawyer for there to be redactions in documents where
22 some of it is business matters and some of it reflects legal
23 advice.

24 So I am operating under the assumption that that's why
25 the redaction was. If the Receiver can test the validity of

1 the redaction, they had the opportunity before trial to raise
2 that issue and sort it out. So at this point we assume that
3 that's a valid assertion of legal privilege.

4 MR. BRYANT: Your Honor, the Magness parties have no
5 objection to, as long as it doesn't waive anything else,
6 providing the unredacted version of that document to -- for
7 the jury to see, for the opposing party to see. So we make
8 that offer at this point, and there's nothing to -- nothing to
9 hide here.

10 MR. DAY: Your Honor, may we approach to discuss?

11 THE COURT: Oh, so briefly.

12 (Discussion at the bench, out of the hearing of the
13 reporter.)

14 THE COURT: I understand the Receiver is going to
15 accept the offer of production of that with the understanding
16 that it doesn't constitute any waiver of any other claim of
17 attorney/client privilege.

18 MR. BRYANT: Your Honor, could we go ahead and mark
19 this as an exhibit?

20 THE COURT: That's fine if you want to offer it.

21 MR. BRYANT: Okay.

22 MR. DAY: Do you have an extra copy I can see?

23 MR. BRYANT: I don't believe we have one, but you
24 are welcome to see it.

25 Your Honor, I don't know whether we have an exhibit

1 sticker or -- thank you.

2 Your Honor, I've marked the unredacted version of the
3 handwritten notes of the December 5th, 2008 meeting of the
4 Mango Five investment committee as Defendant's Exhibit 292-A,
5 if that's okay, and I would like to present that to the
6 witness.

7 THE COURT: All right. Are you offering it at this
8 time?

9 MR. BRYANT: I am offering it at this time.

10 THE COURT: Any objection?

11 MR. DAY: No, Your Honor.

12 THE COURT: It's admitted.

13 MR. BRYANT: May I present this to the witness?

14 THE COURT: Yes.

15 REDIRECT EXAMINATION

16 By Mr. Bryant:

17 Q. Mr. Armstrong, are the -- is everything, including the
18 unredacted portion of Exhibit 292-A, in your handwriting?

19 A. Yes, it is.

20 Q. Okay. I'd like to ask you to look at the second page of
21 the document. We already talked about the portion of that
22 document that refers to that page that refers to Stanford
23 International Bank.

24 Could you do your best to read the portion just below the
25 portion that refers to Stanford International Bank?

1 A. For the year arrowed and no leverage, one billion in
2 cash, 480 million in additional capital, very solvent,
3 liquidity quickly.

4 Q. Okay. Is that the portion of the redacted document that
5 you saw unredacted yesterday?

6 A. Yes, it is.

7 Q. Okay. Now, counsel for the Receiver asked you about
8 whether or not it was your contractual duty with Mango Five to
9 report if you saw some evidence of Ponzi schemes among the
10 investments of Mango Five. Do you recall that?

11 A. Yes.

12 Q. And is it correct that you didn't have a contractual duty
13 to do that?

14 A. That's correct.

15 Q. Had you seen ever, in your functions with Mango Five
16 investment committee or Gary Magness, evidence that he was
17 invested in a Ponzi scheme, would you have made Mr. Magness
18 and the other members of the committee aware of your belief?

19 A. I believe I would, yes.

20 MR. BRYANT: Pass the witness.

21 MR. DAY: No further questions, Your Honor.

22 THE COURT: Thank you, sir. You may step down.

23 THE WITNESS: Thank you.

24 MR. BRYANT: May this witness be excused?

25 THE COURT: Any objection?

1 MR. DAY: No, Your Honor.

2 THE COURT: That's fine.

3 MR. PETRIE: Call Steve Knudson.

4 THE COURT: Go ahead and have a seat, please, sir.

5 THE WITNESS: Yes, Your Honor.

6 THE COURT: Could you raise your right hand, please?

7 (Whereupon, the oath was administered by the Court.)

8 THE COURT: The Magness parties may proceed.

9 MR. PETRIE: Thank you, Your Honor.

10 Mr. Knudson, would you do me a favor and pull the mic
11 closer to you? That way we won't have a problem listening to
12 you.

13 THE WITNESS: Is this better?

14 MR. PETRIE: Much. Thank you.

15 May I approach the witness with a binder of exhibits,
16 Your Honor?

17 THE COURT: Yes.

18 MR. PETRIE: Thank you.

19 STEVE KNUDSON, SWORN,

20 DIRECT EXAMINATION

21 By Mr. Petrie:

22 Q. Mr. Knudson, understanding that your name has been
23 bandied about quite a bit the last couple of days, could you
24 just as basic background explain to the jury, please, what
25 your roles are with respect to the Mango Five Family, Inc.,

1 entity?

2 A. Yes. I'm vice president of Mango Five Family, Inc., and
3 I'm also a board member of Mango Five Family, Inc.

4 Q. And we've also seen a series of minutes several times for
5 these investment committees. Were you involved over the
6 course of, let's say, from formation of Mango Five in late
7 2006 through, say, the middle of 2009 just as a benchmark with
8 those investment committees?

9 A. Yes, I was.

10 Q. What was your involvement over that time frame?

11 A. I attended meetings for the quarterly meetings for MFFI,
12 if I may use that.

13 Q. Certainly. Now, you have also been sitting in the
14 courtroom throughout the proceedings thus far as a
15 representative of the company. Correct?

16 A. Correct.

17 Q. And you've heard some of the factual assertions that
18 counsel for the Receiver made in his opening statement.
19 Correct?

20 A. Correct.

21 Q. Did you -- do you remember his comments to the effect
22 that the Magness parties have concocted this -- their version
23 of the events and have made up a story?

24 A. I heard that, yes.

25 Q. And what's your reaction to that assertion that the

1 Receiver is making?

2 A. It's untrue.

3 Q. The Receiver also made the assertion that the folks at
4 Stanford International Bank had said things to Mango Five
5 Family, Inc., and its representatives that the representatives
6 of Mango Five knew were false. Do you recall that?

7 A. Yes.

8 Q. And is that an accurate statement?

9 A. I don't believe so.

10 Q. Now, during the course of the time that you were acting
11 as a vice president and a board member of MFFI, did you at any
12 point in time from, let's say, November of '06 through mid or,
13 let's say, through the end of October of 2008 learn any facts
14 that led you to believe that information Mango Family Five had
15 been provided by Stanford International Bank was false?

16 A. No, I did not.

17 Q. During that same time frame, were you provided with any
18 information, any factual information, that led you to believe
19 that Stanford International Bank was running out of cash?

20 A. No, I did not.

21 Q. Now, we've heard some about KMM Parking very briefly, and
22 I don't want to replot any ground that's already been covered,
23 but what was, in a very general way, your involvement with KMM
24 Parking?

25 A. Well, I was a partner with Gary and his brother, and we

1 were developing a parking garage and casino up in the
2 mountains.

3 Q. Okay. And you are the K in KMM, are you not?

4 A. I am.

5 Q. And if you would look at the binder in front of you,
6 could you please look at Exhibit 12-A. The first page is not
7 tremendously helpful, so if you look at the second page, you
8 see, sir, that beginning with the second page and carrying
9 through the remainder of this document, you have faxed
10 information coming over from Stanford that relates to the KMM
11 Parking transaction about which we've heard some testimony.

12 A. Yes. That's correct.

13 Q. Okay. I'd like you to focus, if you would, please, and
14 starting on page 29 of that packet that's 12-A. And the
15 easiest way to steer around in the document is there are some
16 bold letters in the bottom right-hand corner that end and look
17 for the one ending in 29?

18 A. We're talking about the February 5th Stanford Group
19 letter?

20 Q. Yes, sir. And is that a letter that you had a copy of at
21 some point in February of 1999 when you're working on the KMM
22 Parking transaction with Stanford?

23 A. Yes.

24 Q. And, by the way, had you had any business dealings with
25 Stanford International Bank prior to the KMM Parking

1 transaction?

2 A. No.

3 Q. Then if you could also look at the previous page, which
4 is Exhibit 28. Excuse me. It's Exhibit 12-A. It's page 28.
5 I misspoke. Do you have that, sir?

6 A. Yes, I do.

7 Q. Okay. And on that page -- I'm not going to try and
8 pronounce the gentleman's name, but there is another February
9 5, 1999 letter addressed to someone at the Stanford
10 International Bank. Do you see that, sir?

11 A. Yes, I do.

12 Q. On the letter, is that your signature there above the
13 name Steve Knudson?

14 A. Yes, it is.

15 Q. Okay. Is this a letter that you prepared?

16 A. No.

17 Q. How was this letter prepared?

18 A. Well, I believe Stanford in their standard form or
19 whatever, this looks like their typeset, their standard deal.

20 Q. Okay. Had you asked the folks at Stanford in connection
21 with the KMM Parking transaction to extend to the KMM Parking
22 entity a loan credit facility based on a CD deposit?

23 A. I believe they offered this as an extra benefit.

24 Q. And was that a benefit of which KMM Parking took
25 advantage during the time period it was transacting business

1 with Stanford International Bank?

2 A. No, we did not.

3 Q. The point in time when you were transacting business with
4 Stanford International Bank on behalf of KMM Parking, did you
5 have any reason to believe that there was something amiss with
6 that financial institution, the bank?

7 A. No.

8 Q. I'd like to jump forward then and talk to you some about
9 your involvement with MFFI and focus in on some very specific
10 items that have been alluded to during the course of the case
11 thus far.

12 And I'd like to start by talking to you about a October
13 1st, 2007 board meeting, not the meeting of the investment
14 committee, but of the board. And in that context, could you
15 look, please, at Exhibit 134 in your binder. Have you found
16 that, sir?

17 A. You said 34?

18 Q. 134. Hopefully, it's the last document in your binder.

19 A. Yes, I got it.

20 Q. Okay. And if you would look, please, at paragraph 5, it
21 starts at the bottom of the first page and then carries over
22 to roughly the first half of the second. And it's probably
23 easier, because it does straddle two pages, if you would just
24 start with a hard copy, and then if you would, turn, once
25 you've oriented yourself in the document, to the top of the

1 second page of these minutes. And I'd like to ask you a
2 couple of questions here.

3 A. Okay.

4 Q. Do you have that second page, sir?

5 A. Yes.

6 Q. Okay. There is reported in these minutes a statement
7 that you had--and I'm going to read from the minutes--noted
8 one advantage of borrowing from Stanford would be the
9 possibility for legal offset in the event that the Trust's
10 significant investment in certificates of deposit in Antigua
11 were at risk. Do you see that reference?

12 A. Yes.

13 Q. Would you explain to the jury the context? First of all,
14 was that a statement you made at this board meeting?

15 A. Yes.

16 Q. And what was the context in which you made that, sir?

17 A. Well, you know, it's been in my experience as an attorney
18 that when you're dealing with banks, you use legal tools like
19 offset, cross collateral, cross default, curing provisions,
20 and this was a discussion about that in a general way, is what
21 it was.

22 Q. Is there a reason why your reference to that possibility
23 for legal offset is only in the context of Stanford and not
24 for the other banks that are referenced in the preceding
25 paragraph, HSBC and U.S. Trust?

1 A. Well, yes.

2 Q. Why is that?

3 A. At Stanford we had a CD investment program, and so that
4 was different than the other banks where we -- we didn't have
5 CDs. So that possibility, that theory, you know, wouldn't
6 apply.

7 Q. At this point in time when you were speaking to -- when
8 you were providing this comment to the board on October 1st of
9 2007, did you perceive there was an existing risk with the
10 certificates of deposit?

11 A. No.

12 Q. Why did you use the phrase here about "if they were at
13 risk"?

14 A. It's just -- I guess it's my legal training. I didn't
15 perceive there was any actual risk.

16 Q. And if you could then look at Exhibit No. 133, the one
17 immediately preceding, and hopefully that is the agenda
18 followed by the minutes of the investment committee meeting
19 that same day.

20 A. Yes.

21 Q. And if you could look, please, at the item in paragraph 7
22 that has the heading Miscellaneous Items. You were present
23 when these requests were made. Correct?

24 A. Yes.

25 Q. And as a participant in this meeting, did you have an

1 understanding as to what the context was in which these
2 requests for additional information were being made?

3 A. You know, as you can see from these minutes, we would
4 request reports and discussions about all the assets. And Mr.
5 Espy was to prepare a report, and we also asked Mr. Wilk to
6 also look into it.

7 Q. Was there some particular -- was there anything in
8 particular going on with respect to the certificates of
9 deposit that from your perspective led the investment
10 committee to seek this additional information?

11 A. No, not that I'm aware of.

12 Q. Then if you would, would you -- I'd like to jump forward
13 in time and have you look at Plaintiff's Exhibit 62, please.
14 And if you can pass over the first page, which is an agenda,
15 and go right to the minutes of the March 6th, 2008, conference
16 call.

17 Setting aside what's in the minutes, do you have any
18 independent memory of that call?

19 A. Could you ask that again?

20 Q. Yeah. Without looking at the minutes, do you have any
21 independent memory of having a conference call with Juan
22 Rodriguez or Juan Rodriguez-Tolentino at some point in early
23 2008?

24 A. Just generally, generally speaking.

25 Q. And in terms of your general memory of that call, was

1 there any discussion in that call that somehow Mr.
2 Rodriguez-Tolentino was providing the investment committee of
3 MFFI with information that wasn't available to the public?

4 A. No, not at all.

5 Q. Was there any discussion there about this being an
6 unusual circumstance that he as the president of the bank
7 would be speaking to someone who had deposited a lot of money
8 in certificates of deposit?

9 A. No.

10 Q. Did you-all have any thoughts to the effect that this was
11 unusual that you would be speaking to the president of the
12 bank in which Mr. Magness and his companies had deposited \$79
13 million?

14 A. No. I think this was an accommodation because we were --
15 you know, we were a good client. That's all.

16 Q. Now, obviously you've been sitting in the courtroom and
17 had an opportunity to see the discussion about the topics
18 reported in these minutes. Right?

19 A. Yes.

20 Q. Was there anything about the information that was
21 provided at this time that caused any concern for you when you
22 heard Mr. Rodriguez-Tolentino provide it?

23 A. Well, I think overall it was, you know, it was -- it was
24 a feel-good meeting. It was a feel-good discussion. There
25 wasn't anything of major concern to me, so --

1 Q. In or as of, I should say, March of 2008, did you have a
2 certificate of deposit or certificates of deposit at Stanford?

3 A. I did. I had two of them.

4 Q. And for the benefit of the jury, what in approximate
5 numbers were the amounts of certificates of deposit you had at
6 the bank?

7 A. A little over two million and a little over 11 and a half
8 million.

9 Q. And we've seen other information about the 11 and a half
10 million so I'm not going to replot that ground. But could you
11 tell the jury what the source of the funding was for the
12 smaller certificate of deposit for two and some odd million
13 dollars?

14 A. Well, that was a loan against my house.

15 Q. Okay. When you heard the information that Mr.
16 Rodriguez-Tolentino provided to you on March 6th of 2008, did
17 you have any concerns about the security of that CD from which
18 you -- or that you obtained the money to deposit from the
19 mortgage on your house?

20 A. No.

21 Q. After this meeting, did you feel any need, whether for as
22 a member of the investment committee or simply because of the
23 two CDs that you had in your own name, to follow up with Mr.
24 Rodriguez-Tolentino and obtain any additional information
25 based on what he told you?

1 A. No.

2 Q. Was this information something after March 6th of 2008
3 that you were using in your going-forward work, either as an
4 officer of MFFI, as a board member of MFFI, or as a member of
5 the investment committee?

6 A. Could you ask me that again?

7 Q. Let me break it down for you. That was a mouthful. I
8 apologize.

9 Going forward in time from March 6th of 2008, did any of
10 the information that Mr. Rodriguez-Tolentino provided in this
11 meeting, was that information something that you used going
12 forward as a member of the investment committee?

13 A. I'm not sure I understand what you mean by going forward.

14 Q. Well, from March 7th, 2008 into the future, was this
15 information that was something you used in connection with
16 your activities on the investment committee?

17 A. Well, it just made us feel fairly comfortable as we moved
18 forward, and we didn't act on it. We didn't do anything about
19 it.

20 Q. When you heard this information and, as you said, it --
21 it was this feel-good meeting, did you have any sense, to use
22 Mr. Sadler's word, that what you were being given was
23 gibberish?

24 A. No. It was -- it was -- he talked about the sectors and
25 the markets and liquidity and what kind of debt they had

1 and -- you know, it was basic decent information.

2 Q. Now, were you -- you personally, were you involved at all
3 in the transactions that we've been hearing about that took
4 place in October of 2008 involving the loans --

5 A. No.

6 Q. -- from Stanford?

7 A. I wasn't.

8 Q. But you were involved in later investment committee
9 meetings that talked about the existence of the loans?

10 A. Yes.

11 Q. At any point in time, was there a discussion of those
12 loans as somehow being a mechanism that was put in place to
13 try and get more money out of the bank than you were otherwise
14 entitled to?

15 A. No.

16 Q. To use Mr. Sadler's term, was this -- were these loan
17 arrangements, as later discussed in investment committee
18 meetings where you were present, things that were what you
19 understood to be a sham?

20 A. No, not at all.

21 Q. How were these discussed in later meetings when you were
22 present?

23 A. Well, Gary--Mr. Magness--was under, you know, a whole lot
24 of pressure to, you know, either come up with money or sell
25 stock to satisfy the banks, and if he didn't, then you know

1 they'd sell the stock for him, and they were doing that from
2 time to time, and he was under a lot of pressure, so they got
3 money from Stanford quickly.

4 Q. I'd like to jump forward again in time to December of
5 2008 and ask you to look, please, at Exhibit 92. And, again,
6 if you'd skip the agenda, which is the first page of the
7 document.

8 And can you just confirm for me that these--we've looked
9 at them several times during the course of the trial--are the
10 December 5, 2008 minutes for a meeting at which you were
11 present?

12 A. Yes.

13 Q. And at this meeting where you were present, were you
14 present when Mr. Espy made a report to the effect that
15 redemption would not be possible at this time, and at this
16 time meaning in December of '08?

17 A. Yes.

18 Q. Was there any follow-up to what he meant by that with Mr.
19 Espy at this time?

20 A. Well, I mean, the bank wasn't doing -- wasn't going
21 redeem and we had gotten a loan. So that's the -- that's what
22 I remember.

23 Q. When you heard this information, recognizing that you
24 weren't involved in the loan process, but you received this
25 information about redemption and the loans, et cetera, as a

1 member of the investment committee, did that cause you any
2 concern?

3 A. No.

4 Q. Why not?

5 A. Because banks have the right to -- you know, they have
6 the right to allow you to -- to not allow you to redeem or
7 penalize you if you try or not do -- not do anything.

8 Q. I probably should have asked this earlier in asking you
9 questions, sir, but could you -- we've heard a little bit from
10 others, but I'd like to hear it from you about the area of law
11 in which you practiced when you were in the practice of law?

12 A. Real estate, corporate.

13 Q. And in connection with your experience practicing in the
14 area of real estate and corporate, did you become familiar
15 with the concept of what a receiver is?

16 A. Yes.

17 Q. And did you have that general familiarity and
18 understanding of what a receiver was in December of 2008?

19 A. Yes.

20 Q. Was there any discussion the December 5, 2008 meeting
21 that you attended about the potential or the possibility of a
22 receiver in the context of talking about Stanford?

23 A. No.

24 Q. Is that something that you would have understood at the
25 time to be a significant fact?

1 A. Yeah. That would have stuck out like a sore thumb.

2 Q. And why is that?

3 A. Because that's a big deal.

4 Q. Why is that a big deal?

5 A. Because that means the companies could be on the verge of
6 bankruptcy, could be significant problems. It's -- receiver
7 means somebody is taking over the company, the bank, entity.

8 Q. As of December 5th, as a member of the investment
9 committee, did you have any facts that led you to believe the
10 Stanford International Bank was somehow on the verge of
11 bankruptcy or insolvency?

12 A. No.

13 Q. And the last area that I'd like to talk to you about,
14 sir, is a letter you sent out in January of 2009. And to that
15 end, could you please look at the binder under -- at Exhibit
16 98, which is tab 98?

17 And let's just start by looking at the date of
18 the -- you're familiar with this letter. Right?

19 A. Yes.

20 Q. Your signature. Right?

21 A. Yes.

22 Q. How was this letter prepared, put together?

23 A. Well, Tom Espy came over or brought this, the basics of
24 this letter and these -- these bullet points to me, and we
25 drafted a letter -- a letter together to send to Stanford

1 International Bank.

2 Q. And what was the reason for, at this point in time, you
3 sitting down and working with Mr. Espy to prepare this letter?

4 A. Well, Madoff had come to public knowledge and, you know,
5 the investment and finance world was abuzz with Madoff. And
6 so these points were basically a -- a road map, if you will,
7 as to what the things you need to look at for -- for a Ponzi
8 scheme.

9 You know, the word "Ponzi" or the concept of it was,
10 frankly, new to me. And so these particular points we just
11 outlined because it was a -- it was a road map that came from
12 the Madoff situation.

13 Q. At this point in time, based upon the facts available to
14 you, did you have some concern that Stanford might be a Ponzi
15 scheme?

16 A. Yes, we did at this time, yeah.

17 Q. And what was there that led you at this time to have some
18 concern that it might be a Ponzi scheme?

19 A. Well, I mean, they came out with an investment report I
20 think in December or the end of December, something, and they
21 weren't making very much money or -- it just didn't -- it
22 didn't feel right. This was after Madoff came to pass, and we
23 just -- you know, all our antennas were up.

24 Q. When you say that this report came out at the end of
25 December and it just didn't feel right, how did that report

1 come to your attention?

2 A. I think Mr. Espy showed it to us.

3 Q. Did you ever get an answer to this letter?

4 A. There was a phone call late January where they addressed
5 some of this.

6 Q. And who is the they?

7 A. The people at Stanford.

8 Q. Do you remember specifically the people at Stanford who
9 were addressing it?

10 A. It might have been Juan Rodriguez and the lady, Laura
11 Pendergest.

12 Q. And why do you say it might have been?

13 A. I am trying to remember who was on the phone and I don't.

14 Q. And in that phone call, did they address the various
15 questions that you had asked?

16 A. Whatever it was, it didn't make a whole lot of sense.

17 Q. In terms of the phone call providing information in
18 response to this, who else was present from the Magness
19 parties, if anyone else besides yourself?

20 A. I think Tonya Dokken was, and Ray Sutton might have been
21 involved. Bob Armstrong might have been -- you know, I -- I
22 don't remember, specifically.

23 Q. After that phone call, did you have any further
24 communications with the folks at Stanford International Bank
25 about the topics of this letter?

1 A. Did I?

2 Q. Yes, sir.

3 A. No.

4 Q. Did you have any further communications with the folks at
5 Stanford International Bank about any sort of information
6 concerning the bank's operations of the certificates of
7 deposit?

8 A. I don't believe so.

9 Q. Okay.

10 MR. PETRIE: I have no further questions, Your
11 Honor. Thank you.

12 THE COURT: The Receiver may proceed.

13 MR. DAY: Thank you, Your Honor.

14 THE WITNESS: Is this water?

15 THE COURT: Probably. I just wanted to make sure it
16 wasn't coffee.

17 MR. DAY: Your Honor, may I approach the witness?

18 THE COURT: Yes.

19 CROSS EXAMINATION

20 By Mr. Day:

21 Q. Exhibits and then your deposition transcript.

22 Mr. Knudson, are you ready?

23 A. Yes.

24 MR. DAY: May I proceed?

25 THE COURT: Yes.

1 Q. (BY MR. DAY) Mr. Knudson, you've known Mr. Magness since
2 the 1980s. Correct?

3 A. Correct.

4 Q. And you would say that you have a close relationship and
5 are good friends with Mr. Magness. Right?

6 A. Yes.

7 Q. You race with Mr. Magness in those Baja races he
8 testified about?

9 A. Unfortunately, yes.

10 Q. And you currently work at Fortrust. Correct?

11 A. Correct.

12 Q. And that's the computer center we heard Mr. Magness
13 testify about before. Right?

14 A. Yes.

15 Q. It's one of his assets?

16 A. Yes.

17 Q. I'm sorry. I can't hear you.

18 A. Yes.

19 Q. Thank you.

20 A. Sorry.

21 Q. No problem. It's my understanding that you're vice
22 chairman, president, and chief executive officer of Fortrust?

23 A. Yes.

24 Q. And so you're a pretty smart businessman. Right?

25 A. How do you want me to answer that?

1 Q. Truthfully.

2 A. Yes.

3 Q. Now, you know the Magness defendants invested \$79 million
4 into Stanford International Bank CDs. Right?

5 A. Yes.

6 Q. And you're aware that in October 2008, Gary Magness and
7 his companies received \$88.2 million in fraudulent transfers
8 from Stanford International Bank. Right?

9 A. Yes.

10 Q. And you know the Magness defendants took that money out
11 in the form of purported loans. Right?

12 A. Loans, yes.

13 Q. Let's talk about Mango Five and how it is involved in
14 this process. So that's the trustee that oversees Mr.
15 Magness' trusts. Correct?

16 A. Yes.

17 Q. And since Mango Five was formed in 2006, you've been vice
18 president, a member of the board, and on the investment
19 committee. Right?

20 A. Yes.

21 Q. And the role of the investment committee is to evaluate
22 the assets of the Trust and decide whether to keep them, sell
23 them, buy other assets, or invest in other deals. Right?

24 A. It depends. The investment committee?

25 Q. Yes.

1 A. Correct.

2 Q. Mango Five not only provided services to the Trust but it
3 also provided services to Mr. Magness himself and to his
4 companies. Right?

5 A. Sometimes.

6 Q. Sometimes?

7 A. Yes.

8 Q. And Mango Five's investment committee members advise Mr.
9 Magness on what he thought he should do. Is that fair?

10 A. The investment committee would.

11 Q. Would?

12 A. Yes.

13 Q. So let's talk about Stanford International Bank CDs. You
14 had questions about the Stanford International Bank CDs.
15 Right?

16 A. When?

17 Q. You had some for Tom Espy, didn't you?

18 A. I'm sorry?

19 Q. You had some questions about the SIB CDs for Mr. Espy?

20 A. When?

21 Q. Did you have questions for the SIB CDs with Mr. Espy?

22 A. I don't understand the question. I had questions with
23 Mr. Espy about the CDs?

24 Q. Yes.

25 A. When?

1 Q. Did you have --

2 A. 1999 or 2009?

3 Q. Well, you were asking questions about SIB to Mr. Espy
4 when the world entered an economic downturn in 2007. Right?

5 A. Yes.

6 Q. And you were worried then so that's why you asked those
7 questions.

8 A. Yes.

9 Q. Is that a yes?

10 A. Yes.

11 Q. And, in fact, your concern level about Stanford
12 International Bank increased over time.

13 A. What time frame?

14 Q. Did your concern level about Stanford International Bank
15 increase over time?

16 A. Yes, that's a fair statement.

17 Q. Now, we've heard the name Ray Sutton a few times in this
18 trial so far. Correct?

19 A. Correct.

20 Q. And you understand that as Mango Five secretary, Ray
21 Sutton is responsible for taking meeting minutes and preparing
22 them. Correct?

23 A. Yes.

24 Q. And although you were a member of Mango Five, it was not
25 your job to take notes. Right?

1 A. Right.

2 Q. That was Ray Sutton's job.

3 A. Yes.

4 Q. Well, let's look at some of those notes. We're going to
5 look at Plaintiff's Exhibit 134. And this is the board of
6 directors' meeting from this day. Correct?

7 A. Yes.

8 Q. There's also an investment committee meeting that happens
9 this day?

10 A. Yes.

11 Q. Okay. Let's start with the board of directors' meeting.
12 And I believe you were present. Right?

13 A. Yes.

14 MR. DAY: Let's go to the next page, Mr. Jarrett and
15 Mr. Knudson, and I'm going to look at that same paragraph one
16 more time.

17 Q. (BY MR. DAY) So it says Mr. Knudson noted the one
18 advantage of borrowing from Stanford would be the possibility
19 for legal offset in the event that the Trust's significant
20 investment in certificates of deposit in Antigua were at risk.
21 Right?

22 A. Right.

23 Q. And I believe you said on direct that you in fact said
24 this at the meeting?

25 A. Yes.

1 Q. Yes?

2 A. Yes.

3 Q. So, in sum, we've got borrowing from Stanford,
4 possibility for legal offset if they're at risk. Right?
5 Those are the two parts of this?

6 A. Yes.

7 Q. Is that a yes? I'm sorry.

8 A. Yes. I'm sorry.

9 Q. Now, Mr. Sutton's minutes are correct, aren't they?

10 A. Yes.

11 Q. And so according to these minutes, you suggested in
12 October 2007 that the SIB CDs could be at risk.

13 A. Could you rephrase that for me?

14 Q. According to these minutes, you suggested that Stanford
15 International Bank CDs could be at risk?

16 A. Yes.

17 Q. Let's turn to Plaintiff's Exhibit 133, which is the
18 investment committee from the same day. And if you could turn
19 to -- it's the page that ends with the numbers 491. So a
20 couple of pages in.

21 A. Yes.

22 Q. We're going to look at miscellaneous items one more time.

23 A. Okay.

24 Q. And we've seen this before so I'm not going to read it
25 verbatim, but we say here that Mr. Magness requested for a

1 further investigation. Right?

2 A. Yes.

3 Q. And so Mr. Magness had a desire to investigate the
4 Stanford International Bank CD.

5 A. Yes.

6 Q. And, in fact, on October 1st, 2007, he ordered that they
7 be further investigated.

8 A. Yes.

9 Q. So, again, Mr. Sutton's minutes are correct.

10 A. Yes.

11 Q. And I just want to bridge this concept. We've got two
12 minutes. On the same day that you say the Stanford
13 International Bank CDs might be at risk, Mr. Magness says go
14 investigate. Right?

15 A. Yes.

16 Q. And this October 1st, 2007 meeting was not the last time
17 that Mango Five talked about Stanford International Bank and
18 its CDs. Right?

19 A. Right.

20 Q. In fact, you had continuing questions about Stanford
21 International Bank following this meeting.

22 A. What do you mean by questions?

23 Q. You know what a question is?

24 A. Yes.

25 Q. Did you have questions about Stanford International Bank

1 and its CDs following this meeting?

2 A. We had discussions, yes.

3 Q. And questions, didn't you?

4 A. Point them to me. I'll look at them.

5 Q. I'm sorry. I can't hear you.

6 A. Point them to me, I will tell you if they were questions
7 or not. We had questions about Stanford for years. Every
8 meeting.

9 Q. So is your testimony that after October 1st, 2007, you
10 had no questions about Stanford International Bank or that you
11 had some questions?

12 A. I'm sure we did, yeah.

13 Q. Well, let's discuss those continuing questions. Turn to
14 Plaintiff's Exhibit 62, please.

15 A. What number?

16 Q. No. 62, 062. And you've sat here this whole trial.
17 You've seen these before. Correct?

18 A. Yes.

19 Q. And you recognize these minutes as the ones where
20 Stanford International Bank's president, Mr. Rodriguez or
21 Rodriguez-Tolentino, was asked to give a report on the safety
22 of the bank. Right?

23 A. Yes.

24 Q. And go to the second page, please. You were at this
25 meeting. Right?

1 A. Yes.

2 Q. Let's go to that paragraph that talks about the Swiss
3 bank model just so you have it handy.

4 MR. DAY: Go to the next page, please. Blow up all
5 of 5.

6 Q. (BY MR. DAY) So we've seen this "Swiss bank model"
7 phrase in quotes over the past few days. Right?

8 A. Right.

9 Q. You have no idea what a Swiss bank model is, do you?

10 A. I don't -- I don't know what he's referring to here,
11 right.

12 Q. The phrase "Swiss bank model" makes no sense, does it?

13 A. I -- I didn't say that. I said I don't know what it is
14 in reference to.

15 Q. Oh, it's not your testimony that the phrase "Swiss bank
16 model" doesn't make any sense?

17 A. I don't know what it means.

18 Q. It doesn't make any sense, does it?

19 A. I don't know what it means.

20 Q. Mr. Knudson, if you could --

21 A. Sure.

22 Q. -- turn to your transcript, please. You remember that I
23 took your deposition a few months ago. Correct?

24 A. Yes.

25 Q. And at that deposition you swore to tell the truth.

1 Right?

2 A. Yes.

3 Q. All right. And you remember we talked about Swiss bank
4 model at that deposition. Correct?

5 A. Yes.

6 Q. So if you could turn with me to page 312.

7 A. 312?

8 Q. 312. So it's going to spread over a couple of pages.

9 A. Okay.

10 MR. DAY: And so, Mr. Jarrett, if you could get out
11 of that real quick, please. We'll just do it like this.

12 Q. (BY MR. DAY) I asked you, "What is a Swiss bank model?"

13 And you said, "That's the first time I've seen these in a
14 long time. I don't -- I don't remember. I don't remember
15 what that means or what it -- I don't know what that is."

16 And then I asked you, "It doesn't make any sense, does
17 it?"

18 And you just answered, "No."

19 Right?

20 A. Right.

21 Q. And so the phrase "Swiss bank model" does not make sense,
22 does it?

23 A. No.

24 MR. DAY: You can take that down, Mr. Jarrett.

25 Q. (BY MR. DAY) So going into this call with Mr.

1 Rodriguez-Tolentino, you had existing concerns about the
2 safety of Stanford International Bank, and after this call,
3 you realized the Stanford International Bank CD was riskier
4 than a usual CD, didn't you?

5 A. Yes.

6 Q. Let's look at Plaintiff's Exhibit 92 now. These are the
7 minutes and agenda from December 5th, 2008. Right?

8 A. Yes.

9 Q. Let's look at section 4. So Mr. Espy reported that
10 redemption would not be possible. Right?

11 A. Yes.

12 Q. And so you agree, obviously, that after October 1st,
13 2008, Mr. Magness was told he couldn't get his CDs out.
14 Right?

15 A. Yes.

16 Q. And I believe I heard Mr. Magness testify yesterday that
17 before October 10th, 2008, he had no plans to take out loans
18 on the Stanford International Bank CDs. Right? Did you hear
19 him say that?

20 A. I don't -- I don't remember.

21 Q. You don't remember?

22 A. No.

23 Q. Well, actually this borrowing concept you came up with in
24 October 2007, didn't you?

25 A. We were talking to many banks in 2007.

1 Q. This was actually the first step in executing the plan
2 that you came up with in October 2007 of borrowing against the
3 CD and offsetting if there's risk. Right?

4 A. There wasn't a plan.

5 Q. Well, let's look back at Plaintiff's Exhibit 134.

6 MR. DAY: The next page, please.

7 Q. (BY MR. DAY) Let's look at that paragraph one more time.
8 You had an idea at this meeting, didn't you, about borrowing
9 an offset. Right?

10 A. As I said before, that's a -- that's a legal term and
11 that's a philosophy you go in when you negotiate with banks.
12 That is what you do.

13 Q. But it was your idea.

14 A. I was a trained attorney. That's what you think about.
15 You think about cross collateralization. You think about cure
16 provisions. You think about all kinds of stuff to make sure
17 you're protected with the bank.

18 Q. That's right. And --

19 A. That's right.

20 Q. And you thought of this, didn't you?

21 A. I think of that all the time.

22 Q. So you thought of possibly borrowing from Stanford and
23 possibly offsetting if there was risk. Right?

24 A. Yes.

25 Q. And then a year later Mr. Magness borrowed from Stanford.

1 Right?

2 A. Yes.

3 Q. And Mr. Magness took all of his loans out at a time when
4 he was acutely aware of his risk and exposure to the SIB CDs.
5 Correct?

6 A. He took out loans because he was having the margin calls.

7 Q. You would agree with me that Mr. Magness took these
8 millions of dollars in loans out when he was acutely aware of
9 his risk and exposure to the Stanford International Bank CDs.

10 A. In October of 2008, we didn't have any concerns about
11 Stanford. We had concerns about the market and how to keep
12 the stock and not have the bank sell us out. That's what we
13 were acutely aware of.

14 Q. So is it your testimony today that Mr. Magness was not
15 acutely aware of his risk and exposure to the SIB CDs when he
16 took out his loans?

17 A. I think Mr. Magness was aware of his risks in all of his
18 investments. Some are riskier than others, but you
19 characterizing it as acutely aware, I -- I don't know what
20 that -- I don't think that's right actually.

21 Q. Well, let's look at your deposition one more time.

22 A. Sure.

23 Q. If you could turn with me to page 340. And we're going
24 to read a lot of this page so bear with me.

25 MR. DAY: Maybe just blow up the half of the screen.

1 Q. (BY MR. DAY) So here's my question to you. Mr.

2 Magness is -- are you with me on that page?

3 A. Yes.

4 Q. "Mr. Magness is told he can't redeem his CDs, so he does
5 two things: He takes out \$63 million in the form of loans to
6 get money out of that bank and he takes out 25 million in
7 accrued interest to get even more money out of that bank.
8 Right?"

9 And you said, "That's what it says."

10 Right?

11 A. That's what it says.

12 Q. That's what you said. Right?

13 A. Yes.

14 Q. "All of the time, Mr. Magness was acutely aware of his
15 risk and exposure to the CDs. Right?"

16 That was my question?

17 A. Yes.

18 Q. And your answer was, "Yeah. I guess so."

19 A. Yes.

20 Q. So I ask you again, when Mr. Magness took his loans out,
21 he was acutely aware of his risk and exposure to the CDs.
22 Right?

23 A. Yes.

24 Q. Yes?

25 A. Yes.

1 Q. In fact, one of the investment committee members at the
2 December 5th meeting, Ray Sutton, who you already testified
3 about, said that a receiver might be appointed for SIB.

4 Correct?

5 A. I heard that, yes.

6 Q. And yesterday we put up a comparison that was a little
7 hard for me to see between the signed minutes and the draft
8 minutes that had the two sentences that you know I'm talking
9 about. Right? So I want to put up just the minutes with
10 those two sentences. Okay?

11 A. Sure.

12 Q. Let's put up Plaintiff's Exhibit 384.

13 A. Is that in this?

14 Q. If it's not, I can -- you can look on the screen or I can
15 approach and help you find it in a book.

16 MR. DAY: So let's flip to the last page, Mr.
17 Jarrett.

18 Q. (BY MR. DAY) And you see these are the ones we're
19 talking about. They don't have the signature. Right?

20 A. Okay.

21 Q. Right. But it's by Mr. Raymond Sutton?

22 A. Yes.

23 Q. Okay. So I want to zoom in on and highlight the two
24 sentences.

25 MR. DAY: So, Mr. Jarrett, if you could pull those

1 out. All right. Let's go to the prior page. Let's blow up
2 this right here. We'll do it one sentence at the time.

3 Q. (BY MR. DAY) So you recognize the sentence that's in
4 these minutes but weren't in Plaintiff's Exhibit 92 is Mr.
5 Sutton advised that, under United States law, if the bank --
6 and we know the bank means Stanford International Bank.
7 Right?

8 A. Yes.

9 Q. -- went into receivership, the loan would not offset the
10 certificates. It says that right there. Right?

11 A. Yes, that's what it says.

12 Q. And then I want to show you the other sentence that
13 spills onto the next page.

14 MR. DAY: So, Mr. Jarrett, if you could go to the
15 next page, just this top section.

16 Q. (BY MR. DAY) Talking about borrowing against the
17 certificates. Right? We've been talking about that today?

18 A. Uh-huh.

19 Q. That sentence that's new, though, is, Mr. Sutton advised
20 that if the bank went into receivership, under United States
21 law, GMIT would likely have to repay the \$25 million.

22 You know GMIT is the Trust. Right?

23 A. Correct.

24 Q. So you see that sentence there that Mr. Sutton wrote?

25 A. I do.

1 Q. And you agree with me, earlier on the other minutes we
2 saw from Mr. Sutton, that those were correct. Right?

3 A. Yes.

4 Q. It was his job, not yours, to take minutes at these
5 meetings. Right?

6 A. Yes.

7 Q. And they are official business. That's what he's
8 supposed to do?

9 A. Yes.

10 Q. And wouldn't you agree with me that Mr. Sutton is in the
11 best position to type in what he said at a meeting where he's
12 the secretary?

13 A. Best position as compared to who? Yes.

14 Q. And I believe I heard you just testify that knowing about
15 a receiver -- you know about receivers. Right?

16 A. Yes.

17 Q. You knew about them before a receiver was appointed in
18 Stanford. Right?

19 A. Yes.

20 Q. That's a big deal, isn't it?

21 A. Yes.

22 Q. That portends fraud, bankruptcy, a lot of bad things.
23 Right? Right?

24 A. Yes.

25 Q. That is exactly why Mango Five people at that meeting or

1 Mr. Magness said, take these two sentences out, because that's
2 a bad word. Right?

3 A. I never saw this draft.

4 Q. Let's turn to your letter that you sent to Stanford
5 International Bank --

6 A. Sure.

7 Q. -- in January 2009.

8 MR. DAY: Plaintiff's Exhibit 98, please.

9 Q. (BY MR. DAY) We've seen this before. Correct?

10 A. Yes.

11 Q. I'm sorry. Am I ahead of you in your notebook?

12 A. The January 13th letter? I'm there.

13 Q. Thank you. And we see that you signed the letter.
14 Right?

15 A. Yes.

16 Q. And Mr. Magness testified that Tom Espy, who worked at
17 Stanford, drafted these questions for you to send back to
18 Stanford. Right?

19 A. Correct.

20 Q. All right. So you sent -- let's look at the first
21 paragraph. You noted that you're vice president and trustee
22 and that it was part of your responsibilities to evaluate
23 assets. Right? Right?

24 A. Yes.

25 Q. I mean, that was true. Right?

1 A. In part.

2 Q. But this wasn't just some ordinary review. Right?

3 A. We had some concerns, yes.

4 Q. So you -- let's look at the six questions.

5 A. Okay.

6 Q. This is January 13th. Right?

7 A. Yes.

8 Q. Okay. So I see that you asked a number of questions.

9 Fund managers is coming up, auditor. Right?

10 A. Yes.

11 Q. We've got more fund managers. Right? Bank officers.

12 Board members. You see those questions. Right?

13 A. Yes.

14 Q. Let's talk about the sixth question. It says, given the

15 product, sector, currency and alternative investment

16 strategies, how did Stanford International Bank investments

17 only decline less than one percent through November 30th,

18 2008. Right?

19 A. Right.

20 Q. You asked that question. Right?

21 A. Yes.

22 Q. This question reflects that it was very suspicious to you

23 that Stanford's investments had only declined that little.

24 Right?

25 A. Yes.

1 Q. But, in fact, these six questions were questions that you
2 could have asked and may have even asked prior to sending this
3 letter.

4 MR. PETRIE: Object to the form. Speculation, no
5 foundation.

6 THE COURT: Overruled.

7 THE WITNESS: Yes.

8 Q. (BY MR. DAY) In fact, you had already asked about
9 investment strategies in Stanford's investments about a year
10 earlier. Right?

11 A. Yes.

12 Q. That was the whole reason for the March 2008 meeting,
13 wasn't it? Yes?

14 A. Yes. Yes.

15 Q. What's interesting, I heard about your CD investments.
16 Right? You had a two million CD and an 11 and a half million
17 dollar CD?

18 A. Yes.

19 Q. Okay. Now, before you ever sent this letter January
20 13th, you had already asked to cash out your \$2 million CD.

21 A. Yes.

22 Q. If you could turn to Defendants' Exhibit 630.

23 A. 630?

24 Q. Yes.

25 MR. DAY: There we go. Blow that up a little bit

1 more, please. Now we can read it.

2 Q. (BY MR. DAY) This shows this is about a CD liquidation
3 request. Correct?

4 A. Yes.

5 Q. And it was January 12th, 2009. Right?

6 A. Yes.

7 Q. That's before the letter you sent to Stanford
8 International Bank. Right?

9 A. Yes.

10 Q. And it says, we are sending the liquidation request down
11 to SIB today for Steve's smaller CD. That's your \$2 million
12 CD. Right?

13 A. Yes.

14 Q. But you had already authorized this redemption, this full
15 liquidation, before January 12th, hadn't you?

16 A. Yes.

17 Q. And, in fact, you had signed your redemption request for
18 that CD on January 7th. Right?

19 A. Yes, right. I don't have the letter in front of me, but
20 that sounds about right.

21 Q. That's your recollection?

22 A. Something like that, yes.

23 Q. Yes.

24 A. Yes, yes.

25 Q. And, indeed, on the same day, January 7th, 2009, nearly a

1 week before you would send this letter to Stanford, you signed
2 a redemption request for your 11 and a half million dollar CD,
3 didn't you?

4 A. It happened a little later, yes.

5 Q. I'm sorry. What?

6 A. When did you say the date was?

7 Q. You signed your redemption request for the 11 and a half
8 million dollar CD on January 7th, didn't you?

9 A. I might have.

10 Q. Okay. Well, let's look at it together.

11 A. Okay.

12 MR. DAY: It's my understanding Plaintiff's Exhibit
13 111, there are no objections? We offer Plaintiff's Exhibit
14 111 into evidence.

15 MR. PETRIE: No objection.

16 THE COURT: It's admitted.

17 MR. DAY: Please publish it to the jury.

18 Q. (BY MR. DAY) Do you have that document in front of you,
19 Mr. Knudson?

20 A. Yes.

21 Q. We're going to start toward the end of the document.
22 Turn to the eleventh page. The numbers in the bottom right
23 corner should end in 376.

24 A. Did you say the last page?

25 Q. Toward the back. It's the eleventh page.

1 MR. DAY: May I approach, Your Honor?

2 THE COURT: Yes.

3 THE WITNESS: 376. Okay. Okay. Is this it?

4 Q. (BY MR. DAY) Got it. Yes.

5 A. Okay.

6 Q. So you see that this is a letter dated January 7th, 2009.
7 Right?

8 A. Yes.

9 Q. And you're asking to redeem your bigger CD. Right?

10 A. Yes.

11 Q. So your two redemption requests had happened on January
12 7th?

13 A. Yes.

14 Q. Before you sent the letter to Stanford International
15 Bank.

16 A. Yes.

17 Q. Okay. Now let's look at the other documents in this
18 Plaintiff's Exhibit 111. I want to start on the first page.
19 So let's see what this document contains.

20 I see Gary Magness' name and his company several times,
21 and I believe that's your CD. Right? At the bottom.

22 A. Yes.

23 Q. And so all of these are requests for immediate full
24 liquidation. Right?

25 A. Yes.

1 MR. DAY: And let's turn to the next page, Mr.

2 Jarrett --

3 Q. (BY MR. DAY) -- and Mr. Knudson. And you recognize this
4 letter as from Ms. Dokken?

5 A. Do I recognize this letter?

6 Q. You see it is from Ms. Dokken?

7 A. I see -- yes, I see that's from Tonya Dokken, yea.

8 Q. Yes.

9 MR. DAY: And if you could zoom in just to this
10 part.

11 THE WITNESS: Is that in my book here?

12 MR. DAY: May I approach, Your Honor?

13 THE WITNESS: Okay. Thank you.

14 Q. (BY MR. DAY) Yes. Now do you have that letter in front
15 of you? Do you see that there is a request to break them
16 immediately, all of these CDs? Right?

17 A. Yes.

18 Q. And then it says, use the proceeds to pay off the loan
19 principal and send any proceeds, any extra, back to us.
20 Right?

21 A. Yes.

22 Q. Let's move past this letter, and I want to kind of move
23 through quickly the next few just so you have a chance to see
24 them. But let's look at the next page.

25 This is one of those letters that Mr. Magness signed.

1 Right?

2 A. Yes.

3 Q. And he's saying, cash this CD out and offset it against
4 my loan. Right?

5 A. Yes.

6 Q. And if you could just flip through, let's -- let's just
7 see if they're all Mr. Magness. There is Mr. Magness on the
8 next page. Right?

9 A. Yes.

10 Q. So you've gone through all of them, and they're all Mr.
11 Magness?

12 A. Yes.

13 Q. And they're all dated January 21st, 2009. Right?

14 A. Yes.

15 Q. But it wasn't until January 23rd that Juan
16 Rodriguez-Tolentino even acknowledged receiving your letter.
17 Right?

18 A. I -- I don't know.

19 Q. Let's look at Defendant's Exhibit 806.

20 A. 806?

21 Q. That's correct.

22 MR. DAY: May I assist, Your Honor?

23 Q. (BY MR. DAY) I apologize for it not being in the
24 notebook. You can look at the screen in front of you or on
25 the big board.

1 So you see that this is from Mr. Juan

2 Rodriguez-Tolentino. Right?

3 A. Yes.

4 Q. And it's January 23rd, 2009. Right?

5 A. Okay.

6 Q. So before the bank president even said, hey, I got your
7 letter, you've already signed your two redemption requests,
8 and Mr. Magness has already pre-signed his redemption
9 requests. Right?

10 A. So before the -- you said before the -- could you resay
11 that?

12 Q. I can repeat it, yes.

13 A. Thank you.

14 Q. So we're agreed that Mr. Tolentino acknowledged your
15 letter on January 23rd. Right?

16 A. Yes.

17 Q. It talks about thank you for your letter of January 13.

18 A. Yes.

19 Q. Okay. So we're on the same page there. And we also
20 agree that you had already signed two redemption requests on
21 January 7th. Right?

22 A. Yes.

23 Q. And we just saw a whole series of redemption requests
24 that Mr. Magness signed on January 21st. Right?

25 A. Yes.

1 Q. So I just want to get the timeline right. You signed
2 something saying, I want to cash out; then you send a letter;
3 then Mr. Magness pre-signs redemption requests; then the
4 president says, hey, I got your letter; and only then after
5 that do you have a call with Mr. Rodriguez-Tolentino. Right?

6 A. Right.

7 Q. I want to look at Plaintiff's Exhibit 114, please. These
8 are the agenda and minutes from the April 2009 meeting of the
9 investment committee. Do you recognize those? Do you
10 recognize this document?

11 A. Yes. I'm sorry.

12 MR. DAY: Can you go to the next page, please?

13 Q. (BY MR. DAY) So you were present at that meeting.
14 Correct?

15 A. Yes, I was.

16 Q. And let's go to the next page. Let's look at section 3
17 again, report of Stanford. The first sentence says Mr.
18 Magness reported that Mr. Espy confirmed that GMIT's loan from
19 Stanford bank had been paid in full by setting off the
20 Stanford certificates of deposit placed with the bank. Right?

21 A. Yes.

22 Q. So we have these redemption and setoff letters that you
23 and Mr. Magness signed, and we have an acknowledgement in the
24 minutes that, look, there was offset. Right?

25 A. Yes.

1 Q. This offset was the second step of your idea that you
2 came up with in October 2007, wasn't it?

3 A. Yes.

4 Q. You and Gary just wanted to get as much money out of the
5 bank as possible. Isn't that right?

6 A. No.

7 Q. It's not right?

8 A. No.

9 Q. Did you ever see any emails or minutes saying, hey, I
10 plan on paying back Stanford with cash outside of the bank?
11 You didn't, did you?

12 A. I don't recall.

13 Q. It was always going to be offset, wasn't it?

14 A. I don't know that.

15 MR. DAY: Pass the witness.

16 THE COURT: All right. I think unless you just have
17 two minutes, we probably ought to reserve the redirect for the
18 morning.

19 MR. PETRIE: I can't promise two minutes, Your
20 Honor, so I think we better recess.

21 THE COURT: All right. Then this is what you call
22 close enough for government work. We're close enough to 5:00
23 to quit for the day. So you-all have a very pleasant evening,
24 a safe trip home and back. We'll see you-all tomorrow at
25 9:00.

1 (Whereupon, the jury left the courtroom.)

2 THE COURT: Be seated.

3 Bear with me for just a minute.

4 (To the witness) And you can step down.

5 Let me do some arithmetic here quickly. For the Magness
6 parties through today, I show you at 501 minutes. For the
7 Receiver, 235. And it's awkward for me to try and give you a
8 daily total for yesterday or today because we've got 55
9 minutes that got transferred, and I just transferred all of
10 that on today's ledger. But some of it probably should have
11 been on yesterday's, but it nets out the same.

12 So anything else we need to take up?

13 MR. SADLER: Yes, Your Honor. First, we'd like an
14 instruction from the Court that that Mr. Knudson, who is in
15 the middle of testimony, not visit with counsel overnight
16 about his testimony. We would ask the Court to make that
17 instruction.

18 THE COURT: I don't normally do that. I know some
19 people do, but I don't think he should be prohibited from
20 consulting with his lawyers if he wants to.

21 MR. SADLER: Thank you. So that request is
22 overruled then, I take it.

23 THE COURT: Yes.

24 MR. SADLER: Thank you. We just also need to get a
25 ruling on -- apparently there was -- we need to get a ruling

1 on the record for the sidebar earlier. Perhaps Mr. Day ought
2 to address that since --

3 THE COURT: That's fine. I don't think that there
4 was a ruling particularly.

5 MR. DAY: Your Honor, may I?

6 THE COURT: Uh-huh.

7 MR. DAY: Your Honor, when we talked about sidebar,
8 it was about 292-A, which was not admitted at that point and
9 had removed the redacted boxes. I objected because that had
10 not been timely produced in discovery, and they had prepared
11 their witness with it without disclosing it to us. And to
12 spring it on us in the middle of trial because of cross-
13 examination about something that they brought up and they
14 prepped their witness with is objectionable. And I just
15 wanted to make clear that was my objection.

16 I understand that you disagreed and overruled that. I
17 wanted to get that on the record and was also why I said I had
18 no objection to offering because that had already been
19 decided.

20 THE COURT: Okay. I don't quite recall it that way.
21 I know you were unhappy about the timing of the production of
22 that, and I said it was my opinion that it was invited from
23 your examination of the witness suggesting that they were
24 trying to conceal something, and I didn't think there was any
25 issue with the timing because of that.

1 MR. DAY: Your Honor --

2 THE COURT: If that amounts to an objection and
3 overruling it, then maybe that's what it was. But my
4 recollection is that your concern was it hadn't been
5 previously produced, and I didn't think they needed to
6 previously produce it because it was a claim of privilege that
7 you-all could have but didn't apparently challenge pretrial,
8 and they had no reason to believe that you would try to
9 insinuate before the jury that that was somehow underhanded or
10 that they were trying to hide something.

11 And I thought in response to that line of questioning, it
12 was a fair response for them to offer to waive the privilege
13 at that time.

14 MR. DAY: And just for the record, that was my
15 objection and you're overruling that?

16 THE COURT: If the objection was it was wrong for
17 them to make that offer when they did, yes, that objection is
18 overruled.

19 MR. DAY: Thank you, Your Honor.

20 MR. BRYANT: Your Honor, I'd like to note on the
21 record also that the Magness parties made the offer to put
22 that Exhibit 292-A into evidence, that the Court allowed the
23 Receiver to either accept that offer or to decline that offer.
24 Had they declined that offer, it would not have been admitted
25 into evidence. They accepted it, and any possible objection

1 that they made in the view of the Magness parties was waived
2 at that point. So we'll just note that as of record.

3 THE COURT: Noted.

4 Anything else?

5 MR. SADLER: No, sir.

6 THE COURT: Okay. I am, with some trepidation,
7 hopeful that I can get you a draft charge tomorrow.

8 MR. SADLER: I beg your pardon. We do have
9 depositions with some briefing to hand up. That's the only
10 other matter for today.

11 THE COURT: Okay. You said with briefing. Do you
12 mean --

13 MR. SADLER: This is the issue, Your Honor, of
14 they're offering the depositions taken in other receivership
15 cases that they want to use here. We have an objection that's
16 been briefed by both sides to that happening at all, and then
17 there are page and line objections if they overcome our
18 objection to doing it at all.

19 That's the briefing I was speaking of.

20 THE COURT: Okay. I'll be happy --

21 MR. SADLER: I can hand that up.

22 THE COURT: Yeah. Please do.

23 MR. SADLER: Your brief as well as ours.

24 THE COURT: And when is this likely to come up?

25 MR. PETRIE: It would -- well, first of all, Your

1 Honor, they haven't met and conferred with us about this. I
2 thought we already addressed this in limine as well.

3 But setting aside those two hurdles, this is the first
4 that this issue has reappeared, but it would come up,
5 ballpark, say, late tomorrow morning or early tomorrow
6 afternoon. We have -- we need to finish with Mr. Knudson
7 tomorrow, we have a deposition from Mr. Wilk, videotaped
8 again. I believe about an hour Mr. Wilk's deposition, it's
9 about an hour. And then we'd be coming up on those.

10 THE COURT: Okay. I will try to be educated in time
11 to address that. Honestly, I don't recall personally having
12 been aware of this as an issue earlier. And I'm not saying
13 you didn't file it timely or anything. For whatever reason,
14 it hadn't crossed my radar.

15 MR. SADLER: They were filed sometime ago, Your
16 Honor. This is not new.

17 THE COURT: Yeah. I'm not fussing at you. I'm just
18 confessing. I'm baring my soul, saying I just however,
19 whatever the reason, missed this amongst the various papers.

20 MR. PETRIE: In that case, I apologize to counsel,
21 Your Honor. If it's the old motion, we have responded to it,
22 it's been fully briefed, and our brief is in the record,
23 although I don't have a copy to hand up to Your Honor.

24 MR. SADLER: I handed him both our brief and your
25 brief.

1 MR. PETRIE: Oh, thank you.

2 MR. SADLER: That's what I handed up.

3 THE COURT: Yeah. They're both here.

4 Okay. Anything else?

5 MR. PETRIE: Not from us. Thank you.

6 MR. SADLER: Not from the Receiver.

7 THE COURT: All right. You-all have a good evening.

8 We'll see you in the morning.

9 MR. PETRIE: Thank you.

10 MR. SADLER: Thank you, Your Honor.

11 (The proceedings were concluded at 5:10 p.m.)

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I HEREBY CERTIFY THAT THE FOREGOING IS A
CORRECT TRANSCRIPT FROM THE RECORD OF
PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.
I FURTHER CERTIFY THAT THE TRANSCRIPT FEES
FORMAT COMPLY WITH THOSE PRESCRIBED BY THE
COURT AND THE JUDICIAL CONFERENCE OF THE
UNITED STATES.

S/Shawn McRoberts 01/11/2017

DATE
SHAWN McROBERTS, RMR, CRR
FEDERAL OFFICIAL COURT REPORTER

APPENDIX E

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RALPH S. JANVEY, IN HIS	(CAUSE NO. 3:15-CV-401-N
CAPACITY AS COURT-APPOINTED)	
RECEIVER FOR THE STANFORD	(
INTERNATIONAL BANK, LTD.,)	
et al.,	(
Plaintiff,)	
	(
vs.)	
	(
GMAG LLC, MAGNESS SECURITIES)	
LLC, GARY D. MAGNESS, and	(
MANGO FIVE FAMILY, INC., IN)	
ITS CAPACITY AS TRUSTEE FOR	(
THE GARY D. MAGNESS IRREVOCABLE))	DALLAS, TEXAS
TRUST,	(JANUARY 12, 2017
Defendants.	(9:00 A.M.

VOLUME 4

TRIAL ON THE MERITS
BEFORE THE HONORABLE DAVID C. GODBEY
UNITED STATES DISTRICT JUDGE
and a jury

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1 P R O C E E D I N G S

2 JANUARY 12, 2017

3 THE COURT: Good morning.

4 All set?

5 MR. SADLER: Yes, sir.

6 MR. PETRIE: Yes, sir.

7 THE COURT: All right.

8 (Whereupon, the jury entered the courtroom.)

9 THE COURT: Be seated.

10 Good morning. How's everybody?

11 SEVERAL JURORS: Fine.

12 THE COURT: Good. We are just anticipating another
13 busy day, covering lots of ground. I think we're on our
14 regular schedule today, as far as I know, so we'll plan to go
15 until about 10:30, 10:40, and take our morning break and lunch
16 at 12:30.

17 So where were we?

18 MR. PETRIE: I believe, Your Honor, we were about to
19 start the redirect of Mr. Knudson.

20 THE COURT: Okay. Then let's proceed.

21 MR. PETRIE: Thank you.

22 STEVE KNUDSON, PREVIOUSLY SWORN,

23 REDIRECT EXAMINATION

24 By Mr. Petrie:

25 Q. Mr. Knudson, I would like to discuss with you this

1 morning several of the topics that Mr. Day talked with you.

2 Before we do that, I was having trouble hearing you
3 yesterday. So what I'd like to do, and just tell me if this
4 doesn't work as we go along, is work with you using the screen
5 to your right. And if you would make sure to pull that mic
6 close to you, I won't have the notebook creating that
7 interference with you being able to have the mic close to your
8 mouth. Okay?

9 A. Is this -- is this better?

10 Q. That is much better. Thank you.

11 A. Thank you.

12 Q. And if -- if you need to, I think you can move the mic a
13 little bit to your right as well if you need to look at things
14 on the screen. So with that preamble, let's look at Exhibit
15 134 that Mr. Day discussed with you and, in particular, look
16 at page 2 of Exhibit 134.

17 Do you remember he asked you a bunch of follow-up
18 questions concerning the -- it will be the fourth paragraph on
19 that page concerning your notation about potential advantages
20 to borrowing from Stanford. Do you recall discussing that?

21 A. Yes, I do.

22 Q. I'd like to put that in a little more context, Mr.
23 Knudson. Let's look at the paragraph immediately above that,
24 the one that talks about the negotiations for loans. Do you
25 see that paragraph, sir?

1 A. Yes. Yes, I do.

2 Q. Okay. Now, in that paragraph where it discusses the
3 negotiations or the continuing negotiations with HSBC, U.S.
4 Trust, and that's Sanford there for new loan facility. What
5 type of loans in October of 2007 were being negotiated with
6 these three lenders?

7 A. These were all -- all margin loan facilities.

8 Q. And when there's a reference to Sanford there or Stanford
9 in your next paragraph, which one of the Stanford entities is
10 that referring to in the context of these new margin loan
11 facilities that were being discussed?

12 A. Well, that would be the Stanford Group Companies, the
13 brokerage side of the deal.

14 Q. And in terms of the -- what was going on in October 1 of
15 2007, was there a -- what type of plan was there, if any,
16 about negotiating margin loans with the Stanford Group
17 Company, the brokerage?

18 A. There wasn't a plan then.

19 Q. Before the October 1st, 2007 meeting, had you discussed
20 this notation that you made -- that Mr. Sutton reported you
21 made here about a potential advantage to borrowing, had you
22 discussed that with Mr. Magness before October 1, 2007?

23 A. No.

24 Q. Had you discussed that with any of the other members of
25 the investment committee of Mango Five prior to October 1 of

1 2007?

2 A. No.

3 Q. Had you discussed with them generally the concept of
4 legal offset in terms of borrowing prior to October 1 of 2007?

5 A. No.

6 Q. Now, at this point in time, as of October 1 of 2007, did
7 you have any factual information that led you to believe at
8 that point in time that the certificates of deposit from the
9 bank in Antigua were at risk?

10 A. No.

11 Q. Again, focusing in on October 1, 2007, was there any plan
12 at that point in time for borrowing against those certificates
13 of deposit in Antigua?

14 A. No. This was talking about margin loans.

15 Q. And in -- let me take the time period. From -- we talked
16 about KMM Parking a little bit yesterday afternoon.

17 A. Yes.

18 Q. So that timeframe, let's talk, say, February of '99 up
19 to right before October 1st of 2007. Do you have the time
20 frame in mind I'm asking you about?

21 A. Yes.

22 Q. Okay. In that time frame, had there been any discussions
23 that you participated in about potential borrowings against
24 Stanford International Bank certificates of deposit?

25 A. Not that I'm aware of, no.

1 Q. Was there something about the transaction that KMM
2 Parking had engaged in in the 1999 time frame with Stanford
3 International Bank that led you personally to believe there
4 was some issue about certificates from that institution being
5 at risk?

6 A. No.

7 Q. Did you have any facts as of October 1, 2007 there might
8 be some sort of issue with certificates of deposit issued by
9 that international bank in Antigua?

10 A. No.

11 Q. During your tenure on the investment committee, and let's
12 focus from its inception in late 2006 through, say, mid 2009,
13 over that time frame was there ever any discussion at the
14 investment committee about going to Stanford International
15 Bank and talking about margin loans?

16 A. I believe there was, yes.

17 Q. And what discussion do you believe there was with the
18 Stanford International Bank over that time frame about
19 potential margin loans?

20 A. Stanford International Bank?

21 Q. Yes, sir.

22 A. Stanford Group Companies about margin loans.

23 Q. Okay. I'm sorry. I moved away from Stanford Group
24 Companies, and I -- I apologize.

25 A. They are two separate --

1 Q. Please lean forward so you speak in the mic.

2 A. Oh, I'm sorry. I'm sorry.

3 Q. Not the Stanford Group Company. So during the window
4 from when Mango Five was formed in late '06 to, let's say, mid
5 '09, you have that time frame in mind --

6 A. Yes.

7 Q. -- was there any discussion at the investment committee
8 about going to Stanford International Bank and talking to it
9 about margin loans?

10 A. No.

11 Q. At the point in time October 1st of 2007, and we don't
12 need to look at the minutes, but the ones we just looked at --

13 A. Yes.

14 Q. -- as of that point, did you already have in place the
15 deposit of two-plus million dollars of your money that you
16 obtained by mortgaging your home?

17 A. Yes.

18 Q. And at that point in time when you were making the
19 comment here about a potential that there might be -- the
20 certificates might be at risk, were you concerned that your
21 personal certificate of deposit in some way might be at risk?

22 A. No.

23 Q. Would you have continued on with the money that you
24 borrowed as against your home in that certificate of deposit
25 if you thought it was at risk?

1 A. No. No, I wouldn't have.

2 Q. Why not?

3 A. Because my home could be at risk.

4 Q. Again, looking at this October 1, 2007 time frame, did
5 you also have in place the 11 and a half million dollar
6 certificate of deposit that was providing you with income
7 while you were working on the start-up of Fortrust?

8 A. Yes.

9 Q. And at that point in time, did you have any concerns that
10 the income on which you were relying while you were working on
11 Fortrust was somehow susceptible to some sort of risk because
12 it was derived from that certificate of deposit?

13 A. No, no, I didn't.

14 Q. Looking again at that same time frame of October 1, 2007,
15 do you remember yesterday Mr. Day was asking you questions to
16 the effect of whether the CDs, quote, might be at risk, end
17 quote?

18 A. Yes, I remember that.

19 Q. Okay. And do you remember he also asked you a question
20 about whether the CDs could be, I use that in quotes, at risk?

21 A. Yes.

22 Q. Did you have either one of those thoughts in the October
23 2007 time frame?

24 A. No.

25 Q. Mr. Day asked you some questions yesterday about what was

1 essentially whether you had continuing questions about the
2 certificates of deposit from Stanford International Bank, not
3 in the context of your own, but he was talking about the CDs
4 that were the deposits to GMIT, Magness Securities, and GMAG.
5 Do you remember discussing that generally?

6 A. Yes.

7 Q. Could you, for the jury, give us a short chronology of
8 any questions that you had about the CDs that fall on that
9 continuum about which he was asking you?

10 And let's start with KMM just for background. Did you
11 have questions about the CDs way, way back in 1999 when you
12 did that first certificate of deposit transaction.

13 A. Well, in 1999, we did a six-month CD for four million,
14 four and a half million, I believe, and it worked fine. They
15 paid us interest, they paid us on time, and we used it to
16 build the parking garage. So to us it was a good -- you know,
17 it worked out fine.

18 Q. Did you, in that context back in 1999, ask any questions
19 about what the bank was doing with the KMM Parking money for
20 the term of that CD?

21 A. No.

22 Q. Why not?

23 A. It was -- you know, we -- Stanford looked like a
24 legitimate deal and we had friends in the company and they --
25 we relied on them to, you know, help us through that.

1 Q. Then let's move forward on the continuum, using that
2 October 1, 2007 date as just a benchmark.

3 A. Sure.

4 Q. From November of '06, when MFFI or Mango Five was formed,
5 through that October meeting, did you have any continuing
6 questions about those certificates of deposit?

7 A. Not that I remember.

8 Q. Then going forward from 2007, can you tell the jury,
9 please, when was the next time you had any question about
10 those certificates of deposit?

11 A. Well, when MFFI was formed, you know, those were an
12 asset, and we just, you know, had questions about what it was.

13 Q. Okay. And did you -- when you talk about having
14 questions about what it was, of who or what were you asking
15 those questions?

16 A. I think we asked Tom Espy, and that was pretty much it.

17 Q. Did you get answers at that time?

18 A. In October of '07?

19 Q. Well, at any point from November, when MFFI was formed,
20 through October?

21 A. I don't -- I don't remember.

22 Q. Do you have any memory that there were questions you had
23 asked that went unanswered?

24 A. No.

25 Q. Okay. Then going, again just as sort of an arbitrary

1 benchmark, but because there's a meeting there from October 1,
2 2007 or maybe we should say October 2, 2007, going forward,
3 when was the next time you had any questions of any sort about
4 the Stanford International Bank CDs?

5 A. Well, we understood that, you know, that there were some
6 loans put against the CDs and -- but Gary did that because he
7 needed -- you know, he needed to do quick margin calls.

8 Q. And those are the loans we've talked about at some length
9 in October of '08. Is that right?

10 A. Right.

11 Q. And were there any questions -- so in that roughly
12 year-long span from October of '07 to October of '08, did you
13 have any questions about the CDs in that year-long period?

14 A. Well, we -- we -- you know, Tonya Dokken had inquired in
15 early '08, and we had some questions and talked to them in mid
16 '08, March of '08, about the program.

17 Q. Okay. And were -- we looked earlier -- and I'm not going
18 to pull it up right this moment, but during the course of
19 trial we looked at an email that Ms. Dokken sent on behalf of
20 the -- the board. Do you recall that?

21 A. Yes.

22 Q. And was that email something that you as a board member
23 were on board with her going out and trying to obtain that
24 information?

25 A. Yes.

1 Q. Okay. Let's look, then, at what we have about -- in your
2 discussion with Mr. Day yesterday, about that March '08 board
3 meeting, and the minutes of that were at Exhibit 62.

4 And we're going to skip the agenda again and turn to the
5 top of the next page of the minutes and look at that report on
6 what happened at the March 2008 board meeting.

7 MR. PETRIE: Next page, please. Top of the next
8 page.

9 Q. (BY MR. PETRIE) And I'm just having that shown to you,
10 Mr. Knudson, for context.

11 A. Okay.

12 Q. Do you remember in your conversations with Mr. Day
13 yesterday, you talked about how that at this point in time you
14 understood that this was riskier than, and I think what you
15 said was, a usual CD?

16 A. Yes.

17 Q. Do you recall that?

18 A. Yes.

19 Q. And when you referred to a usual CD yesterday with Mr.
20 Day, what did you mean?

21 A. Well, than a U.S. CD from a U.S. bank.

22 Q. And why was it that you had at this point in time the
23 perception or the understanding that this was more risky than
24 or a riskier proposition than a CD from a U.S. bank?

25 A. Well, the U.S. CDs are from a -- you know, U.S. banks,

1 and U.S. banks are -- you know, they do commercial loans.
2 This particular CD, the -- what the banks did was these
3 investments that they talked about in -- in their portfolio,
4 such as -- such as precious metals and other investments,
5 equities, so forth. So it was different.

6 Q. And what is there about that type of investment or those
7 types of investments that from your view made this a more
8 riskier proposition than a U.S. CD?

9 A. Well, it's just a little more risky. That was our
10 perception.

11 Q. And I apologize. I maybe should have asked you this
12 first.

13 A. Sure.

14 Q. You told us yesterday that you were not involved in the
15 actual deposits that were the basis for these eight CDs. Is
16 that right?

17 A. Right.

18 Q. Can you tell the jury, please, over -- and let's pick the
19 same year-long period we were talking about from October 1,
20 '07 to October 1, '08, what you were doing in
21 connection -- or, if anything, in connection with the CDs over
22 that period.

23 A. I wasn't doing anything.

24 Q. What were you doing, if not having some involvement with
25 the CDs during that same period?

1 A. Yeah. Gary and Gary's brother and I had started a
2 company called Fortrust, which is a data center company, and I
3 was working full-time there the whole time.

4 Q. Were you consulted at all about the loan transactions
5 that you've referred to as taking place?

6 A. No.

7 Q. When was the first time you heard anything about the loan
8 transactions?

9 A. At our board meetings.

10 Q. Okay. Let's look then at the minutes of the board
11 meeting that -- or the board meeting that most immediately
12 followed the loans in October of 2008. And this is Exhibit 92
13 that you discussed with Mr. Day yesterday.

14 And we'll skip the agenda again and look at the report on
15 the Stanford certificates of deposit. And this carries over
16 from page to page. There's a few trickle-over lines on the
17 next page. But I want to focus in on something that Mr. Day
18 asked you.

19 Do you remember he did that thing where he showed you a
20 copy of the minutes and then he showed you a copy of draft
21 minutes and asked you to look at the -- the changes from the
22 draft to the official minutes that were signed? Do you
23 remember that discussion?

24 A. Yes.

25 Q. And he asked you a question -- and I'm going to use his

1 words, at least in part. I can't repeat the question
2 verbatim. But he asked you a question to the effect of
3 whether some of the words were removed from the draft minutes
4 because they were, quote, bad words, end quote. Do you
5 remember that?

6 A. Yes.

7 Q. Can you tell the jury, from your experience as a member
8 of the investment committee and then as an advisor to the
9 investment committee, what the process was that you went
10 through when at each of those first items you'd review the
11 minutes from the last meeting and approve them?

12 A. Well, we don't -- you know, we don't alter them or amend
13 them or anything like that. We don't change them.

14 Q. What do you do when you go -- if you go through and
15 review them, what are you reviewing them for?

16 A. Just for accuracy.

17 Q. And I believe you told Mr. Day that you didn't remember
18 having seen that draft. Is that correct?

19 A. That's correct.

20 Q. Do you have any reason to believe, based on your
21 participation on the investment committee, that those words
22 were removed to try and hide something from someone?

23 A. No, not at all.

24 Q. And I apologize for skipping around, but if you could,
25 then -- I'm going to ask Austin to pull up Exhibit 111 that

1 you also discussed with Mr. Day.

2 And, in particular, just to put this in context, do you
3 remember discussing with him the page further back that had a
4 letter that you had prepared to the bank about redeeming your
5 CDs way back on page 11 of this document? Do you remember
6 discussing that with him.

7 A. Yes.

8 Q. And he asked you a bunch of questions about this letter
9 that was dated January 7 of '09. Right?

10 A. Yes.

11 Q. And it's signed by both you and your wife, Rita. Right?

12 A. Yes.

13 Q. Now, when you look at all of the exhibit, not just the
14 pieces, parts, that he showed you, does it provide you with
15 any information about when you and Mrs. Knudson actually had
16 that letter delivered to the bank?

17 A. We sent that in in February 4th.

18 Q. And let's look at the second page of this exhibit. Well,
19 let me change it. Let's look at the first page of this
20 exhibit.

21 A. Sure.

22 Q. Okay. Do you know who Heather Strauss is?

23 A. She was an assistant at the Magness Investment Group
24 office.

25 Q. And do you see at the top of this document, there

1 is -- it's got a bunch of information about an office and a,
2 quote, pouch number. Do you see that?

3 A. I do, yeah.

4 Q. And then it has a date. Right?

5 A. Yes.

6 Q. And the date is February 4 of '09?

7 A. Correct.

8 Q. And then, in particular, do you see there's a FedEx
9 number up there that is -- and I'm just going to use the last
10 for digits so that we don't have an enormous numerical
11 mouthful. But you see it ends there in 5396?

12 A. Yes, I see that.

13 Q. Then let's look and see if there's a FedEx air bill or
14 waybill in the materials provided. Do you see one in here? I
15 know you -- I know you're not -- I know you don't have a hard
16 copy because I'm trying to keep you close to the mic. Thank
17 you.

18 A. Okay. On this page.

19 Q. Yes. And do you see that this is a Federal Express
20 international airway bill from Ms. Strauss to the Stanford
21 International Bank?

22 A. Yes.

23 Q. And would you tell us what the air bill number is in the
24 lower right-hand corner there, at least the last four digits?

25 A. It's 5396.

1 Q. Okay. And the -- the date on this is also February 4 of
2 '09. Right?

3 A. Yes.

4 Q. And did you, sir, at any point in time prior to providing
5 this information to Ms. Dokken, in any way communicate to the
6 Stanford International Bank that you wanted to redeem that CD
7 that's referenced in the January 7, '09 letter?

8 A. No.

9 Q. What's the reason for the delay between, if you prepared
10 a letter on January 7th, for not sending it out or not having
11 someone else send it out until February 4?

12 A. Well, we were waiting for them to talk to the Stanford
13 people and see what was going on.

14 Q. And why were you waiting to talk to them and see what was
15 going on?

16 A. To make a final decision on what to do here.

17 Q. What was the information you were expecting them to
18 provide that would allow you or permit you to make a final
19 decision?

20 A. Well, we sent in a letter and we wanted to talk to them
21 about a number of issues.

22 Q. Let's look again at Ms. Dokken's letter --

23 A. Okay.

24 Q. -- that went in with this Federal Express package.

25 MR. PETRIE: If we could look at the second page of

1 Exhibit 111, please. And if you could blow up just -- that
2 will be fine. Thanks.

3 Q. (BY MR. PETRIE) And this letter, dated February 4th of
4 2009, comes from the office of the -- the business office of
5 the Magness entities in Denver. Right? That's that Tabor
6 Center office?

7 A. Yes. Yes.

8 Q. Is that where you officed when you're working for
9 Fortrust?

10 A. No.

11 Q. Where was your office in relation to this address?

12 A. My offices are in north Denver. This is downtown Denver.

13 Q. Then let's look at the text of Ms. Dokken's letter to the
14 bank on February 4th of 2009. Do you see in that letter she
15 is asking for an application of the proceeds from the CD to
16 pay off the loans--principal, estimated interest, and any
17 penalties. Do you see that?

18 A. Yes, I do.

19 Q. And then she says, please use the existing wire
20 instructions to transfer proceeds to GMIT, or GDMIT, Magness
21 Securities, and GMAG. Do you see that reference?

22 A. Yes, I do.

23 Q. And she has then done this arithmetic and has what's
24 called estimated net and shows a number there of about 15.9
25 million. Do you see that reference?

1 A. Yes.

2 Q. Did you-all receive the \$15.9 million delta, in other
3 words, the difference between the amount of the CDs applied to
4 pay off the debt and the total amount of the CDs at that time?

5 A. Not that I'm aware of, no.

6 Q. Did -- has Stanford International Bank advised the
7 companies, the holders of the certificates of deposit, at any
8 point in time that it was taking, and let's say from here
9 until the next couple of months, that it was taking that \$15.9
10 million and doing something else with it?

11 A. Not that -- not that I'm aware of.

12 Q. Was there any discussion of a set-off in that time frame?

13 A. Of this \$15 million?

14 Q. Yes, sir, or 15.9, yes.

15 A. Not -- not that I'm aware of.

16 Q. The last topic I want to talk to you about that you went
17 over with Mr. Day was those meeting minutes from April 9 of
18 2009. And those are the ones marked as Exhibit 114.

19 Wait until we get these up. We'll skip the agenda.

20 Do you remember discussing these with Mr. Day?

21 A. Yes.

22 Q. Okay. And in particular, he directed your attention to
23 paragraph 2 and some of the comments there. Do you remember
24 discussing that with him?

25 A. Yes, I do.

1 Q. And in that paragraph in particular, you discussed with
2 him the -- I'll call it a report that -- I'm sorry. I'm in
3 the wrong paragraph.

4 MR. PETRIE: Austin, let's go the paragraph above,
5 the CDs, please, the next page. That will be paragraph 3,
6 please.

7 Q. (BY MR. PETRIE) Sorry about that Mr. Knudson. I had you
8 in the wrong place.

9 This is what you discussed with Mr. Day yesterday about
10 Stanford and what was going on at this April 9, 2009 meeting.
11 Right?

12 A. Yes.

13 Q. And in there, remember he was asking you questions about
14 the GMIT loan from Stanford Bank that had been paid in full by
15 setting off. You remember he was focusing on that?

16 A. Yes.

17 Q. Is the loan that's being talked about here a margin loan
18 like the one you were talking about in October of '07?

19 A. No.

20 Q. Had -- as you sit here today, when did this setoff
21 transaction take place?

22 A. In -- apparently in February.

23 Q. Why do you say apparently in February?

24 A. Well, it was -- that was the time that Tonya sent in the
25 letter that talked about all that.

1 Q. Do you have any knowledge that it actually happened in
2 February?

3 A. No, I do not.

4 Q. Okay. Did you receive any -- not you personally. As a
5 member of the investment committee, was there any sort of
6 written paperwork that you were provided that talked about
7 whether Stanford International Bank had effected this setoff
8 to pay the loans in full?

9 A. I don't remember.

10 Q. Thank you.

11 MR. PETRIE: Those are all the questions I have,
12 Your Honor. Thank you.

13 THE COURT: Recross?

14 MR. DAY: We have no further questions for Mr.
15 Knudson.

16 THE COURT: All right. Thank you, sir. You may
17 step down.

18 Can I speak with counsel for just one second? This is
19 just a housekeeping matter.

20 (Discussion at the bench, out of the hearing of the
21 reporter.)

22 MR. PETRIE: Our next witness, Your Honor, is by
23 deposition. It is Charles Wilk, and I am going to need a
24 second just to rearrange the microphone closer to the
25 speakers, if I may.

1 CHARLES WILK, BY VIDEOTAPE DEPOSITION,

2 Q. Good morning. Can you please state your name for the
3 record?

4 A. Charles Wilk.

5 Q. And my name is Scott Powers, and I represent the
6 Receiver, Mr. Ralph Janvey. Are you familiar with the
7 Stanford Receivership?

8 A. No, not really.

9 Q. Are you familiar with the Stanford International Bank?

10 A. Again, not really. I mean, I know them by name. That's
11 it.

12 Q. Can you tell us where you live, please?

13 A. 1212 Federal Avenue, Seattle, Washington.

14 Q. And how long have you lived there?

15 A. About 14 years.

16 Q. Did you meet with anybody to prepare for this deposition
17 today?

18 A. Yes.

19 Q. Who did you meet with?

20 A. Lisa.

21 Q. And when was that?

22 A. Yesterday.

23 Q. And how long did you meet with Ms. Lee yesterday?

24 A. An hour, hour and a half maybe.

25 Q. Is that the only time you've met with the attorneys for

1 the Magness Defendants in connection with this case?

2 A. Correct.

3 Q. Are you -- do you understand that we are here on a
4 lawsuit between Mr. Janvey, the Receiver, Gary Magness, and
5 some Magness entities?

6 A. Yes.

7 Q. Okay. And what did you talk about with Ms. Lee?

8 A. Generally she helped me try to put some dates because
9 there were different periods and I was not crystal clear on
10 the first period versus the second period that I was involved
11 with the Magness Group. And we looked at one or two
12 documents. One was just a spreadsheet with a timeline that
13 helped out. That was about it.

14 Q. Tell me more what do you mean when you say, there were
15 two different periods.

16 A. Well, can I just say Magness and we all know that it
17 means, et al.? Is that okay?

18 Q. Yes. That's fine.

19 A. So Magness was a client of the Quellos group for a period
20 of time, and I was an employee and partner of the Quellos
21 group. And then that relationship came to an end, and there
22 was a period of time where we had -- I had no contact Quellos,
23 had no contact with the Magness group in a formal way.

24 And then in early-ish '09, we had already sold Quellos,
25 so I was just kind of kicking around. I took a consulting

1 engagement with the Magness group for a period of time
2 starting in '09. So there was a two-plus year period of time
3 where I didn't really have any working relationship with the
4 Magness group from the time the Quellos relationship ended and
5 the time that my consulting arrangement began.

6 Q. And then how long was your personal individual consulting
7 relationship with the Magness group?

8 A. Probably -- I don't know the actual dates. I'm going to
9 guess slightly less or right at two years, maybe 18 months.

10 Q. What's your current occupation?

11 A. I'm doing -- well, actually I guess now I'm actually an
12 employee. I started as sort of a consultant. I'm an employee
13 with Harmony Capital.

14 Q. And what do you do with Harmony Capital?

15 A. It's a family investment office of somebody I've known
16 for a long time, and so I help him with, you know, various
17 investments, family-related issues, that's primarily it. We
18 have some real estate -- or he has real estate investments,
19 some operating businesses, and I'm involved in those.

20 Q. Did you attend college?

21 A. Did I?

22 Q. Yes.

23 A. Yes.

24 Q. And where did you attend?

25 A. University of Texas-Austin.

1 Q. And what did you study?

2 A. A hodgepodge, but my degree is a BA in biology.

3 Q. And when was your biology degree?

4 A. 1979.

5 Q. And then you attended some postgraduate education,
6 school?

7 A. Yeah. I went to Fordham Law School, and then I went to
8 NYU after that.

9 Q. And you have a JD from Fordham?

10 A. A JD from Fordham and an LL.M from NYU.

11 Q. And what is your -- what was your course of study for
12 your LL.M?

13 A. Tax.

14 Q. Did you go straight from the JD to the LL.M?

15 A. Yes.

16 Q. And what was your first employment after your LL.M?

17 A. Fulbright Jaworski in your hometown.

18 Q. In Houston?

19 A. Yep.

20 Q. How long were you with Fulbright?

21 A. Oh, boy. Let's see. Going way back in time. Let's see.
22 I guess I don't have to be exact. Two plus years, two maybe
23 and a half. I don't remember the start and finish date.

24 Q. Okay.

25 A. Actually may have been closer to three, now that I think

1 about it, because I left and I went -- because that's the next
2 question -- I went to PricewaterhouseCoopers after that.

3 Q. Okay. So after you left Fulbright & Jaworski, you went
4 to PricewaterhouseCoopers?

5 A. Yes.

6 Q. At Fulbright you were a practicing tax attorney?

7 A. Correct.

8 Q. What did you do at PricewaterhouseCoopers?

9 A. Technically really the same things, even though obviously
10 you're not practicing law in a accounting firm, but we did a
11 lot of different tax work.

12 I did a lot of consulting work with private clients,
13 either from the Coopers side or from the Price Waterhouse
14 side, because the year I went was the year that Price
15 Waterhouse and Coopers merged.

16 Q. And you were consulting on tax issues?

17 A. Not all. Some of it was estate planning, some was tax,
18 some of it was just, you know, basic family issues.

19 The actual practice was called -- let's see if I can
20 remember what it was called. Wealth transfer solutions? I
21 don't know. It had a strange name. Basically something akin
22 to family wealth management, I guess would be.

23 Q. I should have asked, you did you go straight from the
24 University of Texas to Fordham?

25 A. No.

1 Q. What did you do between?

2 A. I did a bunch of different things. When I got out of
3 Austin, I worked for Best Products, and then a company called
4 American Fence for a couple of years. I left that to go
5 compete in the America's Cup.

6 Q. Sailing competition?

7 A. Yep. And then when that was over, I took a job running a
8 sailboat for the Watson family, which was out of New York.
9 And ultimately they transferred me out of being a boat captain
10 to moving me to New York. And I worked for the Watson family
11 office for about 13 years. And then I went to law school.

12 Q. Who are the Watsons?

13 A. They started IBM.

14 Q. And what did you do for the Watson family office?

15 A. It's kind of more what did they do for me. They
16 basically gave me my de facto MBA. They were kind enough to
17 bring me up to New York, thought I had a good head on my
18 shoulders, introduced me to some of the best investment
19 business. You know, the family had been wealthy for years and
20 years and years and had a pretty substantial presence.

21 And it was -- I worked at varied and different positions
22 at Watson Enterprises over the years. At the end, I was the
23 president of Watson Enterprises.

24 But it was basically, as I said, my sort of de facto MBA.
25 I spent 13 years getting a great education on a whole bunch of

1 different investment business, legal, tax.

2 Q. You -- I take it at the end of your legal education, you
3 received a law license from Texas?

4 A. First from New York, and then I had to take the Texas
5 Bar, correct.

6 Q. Are either of those licenses active today?

7 A. No.

8 Q. Do you have any other professional certifications or
9 licenses?

10 A. No, not today.

11 Q. Have you had any others?

12 A. Sure.

13 Q. And what are those?

14 A. I had a -- oh, boy, I'm not going to remember them all.

15 A 7 -- let's see. What are all the numbers? Series 7, Series
16 3. Basically a bunch of security licenses. But when we sold
17 Quellos, you have a period of time, I think it's two years, to
18 reattach the licenses or else they expire, and I didn't
19 reattach them to another broker-dealer, so they just expired.

20 Q. When did you first get your securities licenses, or at
21 least when did you get the first couple?

22 A. Let's see. I went to work for Quellos in '99, so without
23 trying to dig up records, maybe '00 or '01, but that's -- I'm
24 guessing, but somewhere in the first two or three years of
25 being at Quellos.

1 Q. And did you go straight from PricewaterhouseCoopers to
2 Quellos?

3 A. I did.

4 Q. Okay. What is Quellos? Or what --

5 A. What was Quellos.

6 Q. -- was Quellos?

7 A. Yeah. It was fund of fund hedge funds, was its basic
8 business.

9 Q. All right. Well, let's unpack that. So what is a fund
10 of fund hedge funds?

11 A. Hedge funds? And there are still some that exist today.
12 Most of them are inside banks. So we're turning the hands of
13 time back, right, to like the mid '90s.

14 I knew about hedge funds primarily through my work at the
15 Watsons, because they had investments with different hedge
16 fund managers, both liquid, semiliquid, and illiquid, all the
17 way to private equity.

18 But it was somewhat of a still not really super well
19 known investment class. And hedge fund is kind of a
20 ubiquitous term. Right? Hedge funds do everything.

21 But they're private investment partnerships, in probably
22 the simplest form.

23 So what Quellos, and at the time it was called Quadra,
24 but what they realized was that while different groups,
25 pensions, endowments, et cetera, wealthy families wanted

1 access to the hedge fund world, it wasn't investments they
2 weren't real familiar with technically, and how you mix and
3 match the different investment strategies is kind of important
4 in the portfolio.

5 So essentially what a fund of fund -- or at least what
6 Quadra and Quellos did, was identify different managers that
7 did different kinds of strategies, and then try to come up
8 with a mix of those, a weighting or a mix of those different
9 managers, that would give you sort of the risk-reward
10 parameters that you may be looking for, and build it into a
11 fund.

12 So it was a fund, like a mutual fund, if you would, that
13 an investor could invest in, but that mutual fund was made up
14 of a whole bunch of hedge funds. So it was a fund of hedge
15 funds. And how you built was that sort of the -- the sauce.

16 Q. So an ordinary mutual fund might just invest in a basket
17 of stocks and bonds and that kind of thing?

18 A. And they're almost always long only. Right? They don't
19 short. I mean, there's some now that do, but back in those
20 days essentially you go into a mutual fund; if it's small
21 caps, they're buying small caps. If it's a government bond
22 fund, they are buying government bonds. Nobody's really
23 shorting or hedging or doing anything with the portfolio,
24 you're just sort of going for a long ride.

25 The hedge fund guys were doing risk arbitrage, merger

1 arbitrage, stat arbitrage, yield curve trading; all kinds of
2 different, more esoteric strategies, long and short, so you
3 kind of make money in the ups and downs. And the name hedge
4 from the idea that you were hedging out some of the risk.

5 And, you know, today the industry has gone through all
6 kind of machinations. But in those days the Yales, the
7 Harvards, the big college endowments, a lot of the pension
8 funds, were making outrageous returns in the hedge fund area
9 because it was new, it wasn't fully developed; there was still
10 a way to exploit a lot of inefficiencies in the market.

11 So what we did at Quellos we built fund of funds for, you
12 know, insurance companies, pension funds, college endowments,
13 wealthy families who said, I really want to be in this class,
14 but I sure don't want to try to build the expertise to
15 understand what's going on in the hedge fund world, so I'd
16 rather give you guys the money and let you guys build the
17 expertise.

18 Q. So what else did Quellos do besides run the fund of
19 funds?

20 A. Well, that was the biggest part of our business.

21 We had another section of the business, because we had a
22 lot of -- well, in the early days it was primarily wealthy
23 families that gave us money. In the later days it was -- we
24 were more institutional than we were families.

25 But a lot of those families were incredibly successful

1 wealthy families, and they would ask for, you know, can you
2 help with? And so we sort of built a multifamily family
3 office.

4 Now, that's -- that's a real simple way to sort of group
5 what that business did. It was called Quellos Financial
6 Advisors. But we would consult with family offices, help them
7 with best practices, accounting procedures, maybe work with
8 their law firm, their accounting firm. We did tax returns
9 in-house for some families.

10 We would consult on all kinds of things, whether it's,
11 you know, planes, NetJetss, structuring aircraft deals, boats,
12 vacation homes, I mean, the sort of the gamut of what you
13 would think a family office would do. We would offer that in
14 sort of an a la carte way to families that were our investment
15 clients.

16 It wasn't -- it was an interesting part of our business,
17 but it wasn't the driver or the horsepower of the business.
18 That was the fund of funds that really drove the business.

19 Q. And what was your role at Quellos?

20 A. In the beginning I was just, you know -- I think there
21 was 40 employees or 35 employees, so, you know, it was a
22 little bit, you know -- you wore, again, a lot of different
23 hats.

24 So I learned a lot more of the investment business from
25 our chief investment officer by going to hedge fund meetings,

1 meeting with managers, you know, sitting in meetings on how we
2 were going to build the portfolio with the analysts.

3 I learned a lot about IT, because one of the things we
4 did was built out an incredible computer database system and
5 risk tool for the hedge fund industry.

6 Later -- and then -- I'm not going to remember the exact
7 order. I also became a principal in the firm, '01 or '02.
8 I'm not sure about the date. Ultimately I also ran that
9 private client side of the business for the last -- I don't
10 know -- probably last three or four years that we had that, I
11 ran that private client business that we had.

12 Q. When did you first meet Gary Magness?

13 A. Wow. Good question. When did I first meet Gary Magness?
14 You know, I really don't know. I take a wild guess and say
15 maybe around '04. If I looked at maybe the original
16 engagement letter or something, it may give me a better frame.

17 One of my partners at Quellos had worked with Tom Espy, I
18 don't remember where, Salomon Brothers maybe, maybe Bear
19 Stearns, and Tom was working with the Magness family, and
20 through my partner -- I don't remember if we met with Tom,
21 talked to Tom on the phone, but that was the introduction to
22 Gary.

23 Q. Okay. So the introduction to Gary was while you were
24 with Quellos?

25 A. Oh, yes. Yes.

1 Q. And as a consequence of your relationship with Quellos?

2 A. Yeah. Correct.

3 Q. Okay. So there was -- the first one looks like ongoing
4 strategic consulting. Do you recall that becoming part of
5 Quellos' engagement with the Magnesses?

6 A. Yeah. I mean, I think in sort of broad strokes it's --
7 it's probably pretty descriptive. My biggest point person was
8 Tonya on the engagement.

9 Q. Okay.

10 A. So if she was in tax return mode, it could be that there
11 was a question about something on a tax return. That didn't
12 actually happen a lot, because that was an area she was real
13 comfortable in. But a ranch expense or something like that,
14 maybe we'd have a discussion. Primarily it was Fortrust,
15 which is a data center.

16 This is not in order. It was the estate -- early on the
17 estate of Bob Magness, which is really something that Ray
18 Sutton and his law firm were heavily involved in. But given
19 that I had a state tax background, and the fact that Ray and I
20 had a nice working relationship, there were definitely a lot
21 of conversations about that in that time. There was a lot of
22 work going on between the IRS and Ray's firm on trying to
23 settle Bob Magness' estate.

24 There was the general idea of what to do with the
25 portfolio. Gary had a fairly significant amount of leverage

1 against the -- what became the Liberty Media positions. At
2 that point there -- Liberty was Liberty. It hadn't spun out
3 and splintered as much as it is today. So there was a little
4 talk about that.

5 I think -- I haven't read all of this other exhibit,
6 which is a report, but my memory was Deutsche Bank was the
7 bank that was involved in the early days, because I remember
8 going to meetings, and they were squeezing Gary pretty hard
9 over the leverage against the Liberty positions. And had a
10 couple of not, in my mind, brilliant ideas of what Gary could
11 do. Ultimately, without really thinking it through, we did a
12 bunch of stuff, paid down a bunch of Deutsche Bank debt, and
13 ultimately left Deutsche Bank.

14 Where did we go next? I don't really remember --

15 Q. When you suggested liquidating some of the stock and
16 retiring some of the debt, did you get any pushback on that
17 suggestion?

18 A. Oh, sure.

19 Q. And what was that?

20 A. You know, Gary's pretty comfortable -- I mean, I don't
21 want to speak for him today, but he was pretty comfortable
22 living with debt against the portfolio. He was a -- is and
23 probably -- or was and probably still is and to some extent
24 justifiably so, a John Malone fan. John's done a great job
25 with that company. John was, you know, his dad's partner, and

1 he had a lot of faith that John would make the right moves
2 with Liberty and ultimately the debt would seem insignificant
3 as Liberty became a more and more valuable company. So he was
4 willing to ride it.

5 The problem is the bank wasn't really willing to play
6 that game -- or that particular bank wasn't, and was making
7 life pretty difficult for him.

8 Q. You mentioned Mr. Malone being a partner of Mr. Magness'
9 father. Was your impression that his judgment about keeping
10 the Liberty stock was -- was a business judgment, or an
11 emotional judgment, or something else?

12 A. I would say it was a -- well, probably all three. Yeah,
13 there's differently an emotional component because it was a
14 business his dad started. Right? John was an employee who
15 then ultimately -- John Malone was ultimately an employee who
16 eventually ran the operation because of Bob's health and
17 untimely demise, but -- which actually preceded me. I never
18 got to meet Bob.

19 But a lot of it was because he really believed in John's
20 acumen and, you know, obviously with hindsight, absolutely
21 smart. I mean, John is a great businessman, has done a great
22 job with Liberty.

23 Q. Did you ever hear Mr. Magness refer to you as his paid
24 pessimist?

25 A. Not specifically, but Lisa brought -- I mean, I --

1 probably some version of that, but Lisa brought that up
2 yesterday.

3 Q. Did -- well, does it -- does it ring true? You said
4 there's some version of that.

5 A. Yeah. Well, I think I maybe learned this at the Watson
6 family or along my lines of practicing attorney, and at PwC,
7 and then at Quellos, it just kind of ring true.

8 For the most part, the type of private clients that we
9 were dealing with didn't really want to hire yes people. That
10 doesn't really serve them a lot of purpose. So there's a
11 little bit of my feeling was I always needed to be the yin to
12 the yang. If they wanted to go long, I needed to be arguing
13 short. If they wanted to go short, I needed to be arguing
14 long. If they needed a hundred-foot airplane, I needed to
15 argue for an 80-foot airplane. If they needed an 80, I needed
16 to argue for a hundred.

17 In other words, what I thought what we were being paid
18 for is to try to probe the other side. And so if that makes
19 me primarily a pessimist, that's probably because a lot of
20 these successful people are optimists.

21 Q. When did you first hear about the Stanford International
22 Bank investment that the Magness people had?

23 A. Well, I have a little bit better clarity now that I can
24 line up dates. So I don't actually know the date, but based
25 on time lines, as I see it now, it would have been during my

1 stint at Quellos. And I remember being sent -- it could have
2 been by email, because I don't really mean snail mail, it
3 could have come by snail mail, but I think it was by email --
4 a kind of broad brush outline of what the CD structure was,
5 probably from Tonya, even though I couldn't swear it came from
6 her, but I'm pretty sure that's probably who it came from.
7 And they said, you know, what do you think of this? Can you
8 look at the structure of the CDs?

9 Q. Like a marketing document?

10 A. Yeah. Unfortunately it was more marketing than it really
11 was substantive. My memory was, you know, I looked at it, I
12 had to make some assumptions, because it wasn't -- I used the
13 word yesterday, what I call open kimono. It wasn't like a
14 full, Here, we're going to show you everything in the secret
15 sauce, the names of the underlying managers, the structures.
16 But basically kind of described -- and why they used the
17 terminology CD, don't really know -- but basically describe
18 what I would call a note structure, where the performance of
19 the note was directly or indirectly derivatively related to
20 the -- to an underlying basket of investment managers.

21 The best I could tell from the information provided,
22 those investment managers were primarily -- I'm in the U.S. so
23 I'm saying offshore investment managers, non-U.S.-based --
24 well, could have been U.S.-based investment managers, but they
25 were running nonU.S.-based funds.

1 And so the performance of this note was you had -- and
2 this is what I explained to Gary. You sort of have all the
3 downside risk of that portfolio, but your upside of that
4 portfolio was capped at whatever the cap was on the interest
5 rate, and I don't remember, 9, 10, 11 percent, whatever. So
6 it was sort of a little asymmetric.

7 If these managers knocked the cover off the ball, you
8 were limited on the upside. But if they struck out, you took
9 all the downside, which was fine. I mean, that's -- there are
10 other note structures out in the marketplace; that wasn't
11 unique.

12 And I basically said to them, Look, if it's really -- if
13 having hedge funds exposure is important to you, there is --
14 you could get it directly. If having offshore hedge fund
15 exposure is important to you, this may be -- this type of
16 structure may be how you have to access it, and then you have
17 to decide whether you're willing to take this sort of the
18 asymmetric performance risk, which is essentially their fee,
19 to have this exposure.

20 But they -- But I remember that there wasn't real full
21 disclosure of, like, you know, it's Joe Blow investment
22 manager in Argentina who's doing longshore. It's, you know,
23 so-and-so investment manager in the Cayman Island doing
24 risk arb.

25 Q. I asked you if it was a marketing document. Do you think

1 what you were looking at was something that was produced by
2 the Stanford people?

3 A. Yes, I do think it was that.

4 Q. And do you recall whether it was a small handful of pages
5 brochure or a big annual report or something else?

6 A. It was not voluminous in that I didn't get a hundred-plus
7 pages, but I do think there were some financials in there
8 also. I mean, not -- again, not a full-blown, you know,
9 60-page audit, but I think there was some, at least, tables
10 and maybe a few pages. And they may have been more
11 performance-related than actual accounting-related, you know,
12 underlying-management performance related.

13 But it was -- it definitely wasn't -- you know, I don't
14 really remember sitting here today, but I doubt it was 35
15 pages. Ah, I guess it could have been 35 pages, but not much
16 more than that, and probably less than that.

17 Q. And other than this one document you've described to me
18 that was sent to you, do you recall looking at anything else
19 about the bank?

20 A. No.

21 Q. And as best as you can recall, can you tell me the
22 sequence of events; that is, you received something, and then
23 what happened next? How did the communications you described
24 unfold?

25 A. Yeah. I mean, I remember documents. I remember looking

1 at them. I remember they're not -- you use the right word,
2 more marketing. It wasn't -- it wasn't as if -- and I guess
3 maybe this is -- to answer your question, I probably assumed
4 they hadn't made the investment yet, because I was thinking --
5 or probably would have assumed, if they had made the
6 investment and they had gotten the first or second or third
7 quarterly report, it would be a much more involved report.

8 You know, there's a difference between what somebody will
9 show you as a marketing tool versus what they show you when
10 you're finally an investor. This looked more like what you
11 would see as a marketing tool. So I may have leapt to that
12 conclusion, and it may not have been true.

13 And I don't remember how I reported back to Magness,
14 whether I -- whether it was to Gary or to Tonya or some
15 combination, whether it was an email, whether it was written,
16 whether it was a telephone call.

17 But I do remember saying, look, it's -- you can call it a
18 CD, it's a note structure. It's basically the full faith and
19 credit of Stanford Bank, the performance of which is
20 derivatively linked to a pool of underlying managers which
21 appear that they could be offshore hedge fund managers, which
22 wouldn't be surprising because UBS was doing it, Credit Suisse
23 was doing it. There were lots and lots of banks out offering
24 that kind of similar product.

25 And if it's important -- if you -- if you feel it's

1 important to have exposure to offshore hedge fund managers,
2 you're probably going to have to use some kind of structure
3 like this to get to them because you can't get to them
4 directly.

5 Q. So let me ask you that, because that comes back to some
6 question I have about the way that Stanford advertised itself

7 What made you think that Stanford was involved in those
8 complicated structures and those kind of risky --

9 A. I think --

10 Q. -- structures?

11 A. -- you had to kind of piece it -- again, I'm looking at
12 more of a marketing than an investment thing. I think I just
13 sort of pieced it. I clearly had to make some assumptions,
14 right, because I didn't have some Stanford guy sitting in
15 front of me I could drill down.

16 But I made some assumptions, and it looked like, and they
17 led you to believe in their materials, that they weren't just
18 buying long only stocks in South America, they were actually
19 investing with investment managers that were exercising hedge
20 fund type strategies in these locations. Whether it was 14
21 managers or 40 managers or 16 managers, that was really hard
22 to ascertain how diversified that portfolio was.

23 I think they -- again, I'm doing this from memory of,
24 what, now 10, 12 years ago, that it was more like 20 to 40
25 total managers. Whether your CD had eight of them or 16 of

1 them or 42 of them in that portfolio, wasn't clear. But they
2 had a pool, and how they utilized that pool --

3 Like, I guess taking it back to Quellos, we had probably
4 60 to 80 different managers in our pool. That doesn't mean
5 all 80 managers was in every fund to funds we built because to
6 us what percentage of risk are versus long shore versus direct
7 lending, that was really important to the parameters, so how
8 many dollars to each different manager and how you spread them
9 out.

10 Unfortunately none of the Stanford material I saw gave me
11 any of that what I kind of call the secret sauce idea. It was
12 just we build a portfolio of what essentially looked like
13 nonU.S. managers, and the performance of that portfolio is
14 really what's driving the return on your CD.

15 Q. Did you -- you made a reference to not having a Stanford
16 person in front of you. Do you recall ever talking to any
17 Stanford people about what this product was so that you could
18 get any questions answered?

19 A. No, I do not remember, no. I -- I -- my memory is I
20 didn't, but I don't remember speaking to anybody from
21 Stanford.

22 Q. Did you look at -- did you ask for or look at any other
23 materials other than what you described to me?

24 A. Well, this goes back to why I had assumed they hadn't
25 made an investment at the time they were asking me to look,

1 because when I did report back, and I have a feeling it was to
2 Tonya, but it could have been to Gary also, or simultaneously,
3 I said, do you want -- I said, I -- other than -- and you did,
4 too, because you live in Houston -- other than if -- depending
5 on where you live in Houston, you drove drive by that building
6 on -- over by the Galleria that was Stanford Bank.

7 I said, other than the fact that I drove -- actually I
8 don't think it said Stanford Bank but said Stanford something.

9 Other than having driven by the bank, I had really no
10 familiarity with Stanford. What I could see was it was a bank
11 in Antigua, and it -- I don't know, was a -- maybe BB minus or
12 B or, you know, it wasn't AAA-rated bank, so you were taking
13 the full faith and credit of something less than AAA or AA.

14 And I said, do you -- you know, do you want to go any
15 further?

16 And they said, no, this is, you know, good enough for
17 now. We'll let you know if we need more.

18 Q. What made you think it was a BB rated?

19 A. Oh, I'm just pulling that out. I mean, it wasn't A AAA
20 rated. Stanford Bank wasn't a AAA-rated bank.

21 I mean, at that point, I think UBS and AIG were the only
22 two AAA, besides the U.S. government, which isn't anymore, was
23 the only AAA-rated banks in the world that I even remember.

24 Q. What did you know about Antigua?

25 A. I did a lot of sailboat racing there, but that's about

1 it.

2 Q. Does it have a good reputation as being a financial
3 center?

4 A. It's okay. You know, it's -- it is a banking center. I
5 don't know how it became a banking center. At least at that
6 time period I was way more familiar with the Cayman Islands.

7 The Caymans at that point were a much larger center of
8 hedge fund work. A lot of our offshore hedge fund managers
9 were Cayman-based, so much more familiar with Cayman than
10 Antigua. But I knew they had a banking sector.

11 Q. Did you have an overall recommendation to Mr. Magness and
12 Ms. Dokken --

13 A. You know --

14 Q. -- about this?

15 A. No. I mean, I didn't say don't put any money in this and
16 I also didn't say put any money in it. I said, look, it looks
17 to be a relatively expensive way to get exposure to a basket
18 of offshore fund of funds. If it's important to get that
19 exposure, you know, if you feel like, you know, you really
20 want that exposure, you're probably going to have to get it
21 derivatively, meaning a note, a CD, a swap, something like
22 that. You could use Swiss, you could use Credit Suisse, you
23 could use UBS, you could use Stanford Bank. There's a
24 handful -- more than a handful of different financial
25 institutions that were happy to be the intermediaries to do

1 that. But just beware you do have the downside risk and your
2 upside is capped, because of the interest rate on the note,
3 and left it at that.

4 Q. Do you recall -- when do you recall next discussing
5 Stanford International Bank with any of the Magness people?

6 A. In -- I think it's like April, now that I've seen the
7 timeline, like April of '09.

8 Tonya had asked me if I would be willing to come to a
9 board meeting they were having in Las Vegas -- well, actually
10 that's probably somewhat false, sorry. She probably called
11 me -- because I think the meeting was in April, so she
12 probably called me in March, you know. I know there wasn't a
13 lot of time, maybe three weeks or something, you know, would I
14 be willing to come?

15 I said, sure, you know, I'd come to the meeting. So I
16 went to the meeting and sat there and at that point --

17 Q. This was after the Stanford Bank was in receivership. Am
18 --

19 A. Yes.

20 Q. -- I right?

21 A. That's true.

22 And you know what? So -- and that's a good point. When
23 I saw an article or articles about the bank when it was
24 unwinding, and obviously there was a ton of press, I sent one
25 or two of those articles to Tonya.

1 I didn't know the extent of Magness' exposure to Stanford
2 at the time--and that will become relevant in a moment--but I
3 knew Tom had been at Stanford Bank, or either -- and maybe
4 still was at the time I sent those articles. And so I just
5 sent on some articles to Tonya. I figured she had probably
6 seen them, but I sent them anyway.

7 And that may have been what precipitated her calling me
8 and saying, hey, can you come to this board meeting,
9 because -- I don't know. You guys know this off the top of
10 your head. When did that whole Stanford thing go down?

11 Q. Let me show you Plaintiff's Exhibit 123. This is a
12 brochure for the Stanford International Bank. I just want you
13 to take a quick pass through it to see if you recognize this
14 is something you've seen before, or if you've seen anything
15 like it before.

16 A. Is this -- is anybody -- I hate to ask, and maybe I need
17 new reading glasses, is it kind of not super clear or --

18 MS. LEE: It's a little blurry.

19 A. Thank you. I was just like, wow, I'm really needing to
20 up my -- I haven't quite admitted that I'm so old that I have
21 to wear reading glasses all the time.

22 Q. I think it is a black-and-white copy of a colored
23 document, which is why --

24 A. Oh, okay.

25 Q. -- the blurriness.

1 A. Wow. I can't say that I didn't see this. I can't say,
2 though, that it rings a whole lot of bells. And it's
3 not -- it isn't what -- I mean, even if I had it, it isn't
4 what I was looking at at the time in whatever, 0 whatever 5,
5 whenever they asked me to look at this potential investment.
6 This isn't what I was doing my analysis off of. It was more
7 involved than this.

8 Q. Okay. What about -- let's talk about some of the
9 marketing messages, and I want to see if they're consistent
10 with what you were --

11 A. Okay --

12 Q. -- looking at.

13 A. -- sir.

14 Q. So if you can turn the page, at the bottom right you see
15 120346?

16 A. Yeah, 0346. Okay.

17 Q. Well, actually let's go back one page, 120345.

18 A. Okay.

19 Q. Depositor Security. It says, "Nothing is more important
20 than peace of mind concerning the security of your money."

21 In what you were looking at, did you see discussion or
22 emphasis of capital preservation or depositor security?

23 A. I don't know if this answers the question. I don't
24 remember like a written dialogue paragraph of this. But the
25 CD, the concept of the CD was -- or the concept of a CD is,

1 you know, you buy a thousand-dollar CD, you get -- you know,
2 at maturity you get the interest on the CD plus your thousand
3 dollars.

4 However, the Stanford CD was that it was indexed to the
5 performance of this basket of investment managers, so there
6 was a risk that you couldn't -- I don't actually -- let me
7 back up a second.

8 I don't know that they explicitly stated this, but if you
9 looked at it and peeled the onion, there was an implicit deal
10 that you could lose principal.

11 You know, typically if you go to JPMorgan Chase and buy a
12 CD -- well, obviously if JPMorgan -- bad example because we
13 have FDIC.

14 If you didn't have a government insurance on a CD and the
15 bank bit the dust, you could lose your principal. But you
16 sort of figure JPMorgan Chase, as my example, AA-rated bank,
17 or whatever it is today, you're probably okay, you'll get your
18 money back; maybe you don't get your interest back or you get
19 something.

20 Anyway, with this, implicitly, as you sort of peeled the
21 onion and looked at some of the materials a little closer, you
22 could lose principle if the underlying investment performance
23 was really bad; in addition to the fact, as with any CD, you
24 have the risk of the balance sheet of the bank.

25 Q. So in the materials that you looked at, did Stanford

1 International Bank emphasize that it focused in its portfolio
2 on capital preservation to minimize the risk you just
3 described?

4 A. Well, clearly they tried to emphasize, or not clearly,
5 but implicitly, and maybe explicitly, they were trying to
6 emphasize their investment acumen in this portfolio to
7 preserve the capital.

8 Whether they actually wrote something that says we're
9 minimizing -- and how they would do that would be a better
10 question, you know minimizing your risk to this underlying
11 portfolio, I don't remember seeing anything like that.

12 Q. And why is that a better question? You said, how would
13 they do that is a better question?

14 A. Yeah. Well, I mean, what are they doing, buying puts
15 against the portfolio? I mean, if your CD is really linked to
16 the performance of these underlying managers, how are
17 they -- besides prudent investment manager selection and, you
18 know, all the other buzz words in the investment world, you
19 know, two thou -- you know, markets collapse. Right? You get
20 Brexit and, you know, things happen.

21 So the only way to truly protect against that, would be
22 if you actually owned a put on the underlying -- from a
23 reputable counterparty on the portfolio, so that if it did go
24 south, you could collect on the put and hold yourself back to
25 even. And I don't know anybody -- that's not true. For

1 enough money anybody will write the put, but -- in those days.
2 But you'd have to find a counterparty that was willing to
3 write the put, and my guess is it would be incredibly
4 expensive.

5 Q. And in -- and if you have investment managers who are
6 involved in the kind of creative hedge fund strategies you
7 described, that's not -- those aren't conservative capital
8 preservation type strategies. Right?

9 A. No, I wouldn't -- actually I wouldn't say that. I would
10 say for the most part they actually are, relatively speaking,
11 conservative strategies.

12 The way they enhance their return on those -- because
13 they're trying to make little bits of money on movements, and
14 they hedge away some of the risk. Depending on the strategy,
15 they'll hedge away the interest rate risk or the idiosyncratic
16 risk, or whatever they are trying to hedge away to try to make
17 it so they're just focusing on a certain variable, but they're
18 really making pennies.

19 But the way they enhance the pennies is with leverage, so
20 they're using two to one, three to one, four to one, eight to
21 one, ten to one, some of them get -- would even get higher
22 than that, leverage to enhance their return portfolios.

23 And as a matter of fact, if you look at most well-run
24 fund of fund of hedge funds, they underperform the S&P in a
25 bull market, but they outperform in a bear.

1 In other words, when the markets crashed in '07, '08, and
2 the markets were down 50 to a hundred percent, hedge funds
3 were down 30 percent. So you don't get whacked as hard on the
4 down, because they do do a better job at that.

5 But when the S&P is up 35 percent one year, or 25 percent
6 one year, they may only be up 16 or 18.

7 So what happens is you give away, for the protection of
8 having a more -- potentially more minimized downside risk, you
9 give up a little of the upside in a traditional S&P type
10 portfolio. That's really the way hedge funds have looked for
11 25 plus years.

12 Q. Let me ask you to turn to page 120346.

13 A. Okay.

14 Q. You see the paragraph that begins liquidity?

15 A. Yes.

16 Q. And it says, "Stanford International Bank [sic] has
17 traditionally emphasized the importance of maintaining the
18 highest degree of liquidity as a security factor for its
19 depositors."

20 Did you see a message like that in the materials you
21 reviewed?

22 A. I -- well, I don't know. Highest degree. I don't think
23 so. And the reason is the CDs had liquidity constraints.

24 Q. All right. So what this is referring to -- well, let me
25 just -- let's go to the top of the page. It says, "The

1 following factors help ensure that your money is preserved for
2 future generations," right? It's talking about the money
3 that's at Stanford International Bank.

4 And then it says, the "bank has traditionally emphasized
5 the importance of maintaining the highest degree of liquidity
6 for its depositors."

7 A. Uh-huh.

8 Q. It goes on to say, "The Bank's assets are invested in the
9 well-diversified portfolio of highly marketable securities
10 issued by stable government, strong multinationals, and major
11 international banks."

12 A. Uh-huh.

13 Q. So the question was, did you see something about the
14 bank's assets being invested in a highly liquid portfolio?

15 A. I mean, I may have actually seen this and just not really
16 remember it, so then yes, I probably did.

17 I mean, I kind of hate to say this, go grab any bank and
18 you are probably going to see some version of that paragraph,
19 because they're all trying to make you believe they're
20 prudently shepherding their balance sheet.

21 Because, I mean, at the end of the day, taking the FDIC
22 out of it for a moment, or the SPIC, at the end of the day
23 you're banking on the bank management running a good bank,
24 because you're putting your -- you know, that's why there's a
25 run on banks; people get nervous that there's not going to be

1 enough liquidity, and everybody wants to be the first one to
2 get their money out and, you know --

3 Q. So if the bank, Stanford International Bank, is saying
4 its portfolio is invested in a liquid portfolio, is that
5 consistent with the hedge fund understanding that you have?

6 A. Well, there's a difference. The bank's balance sheet may
7 or may not have been invested in that stuff, but your CD's
8 performance wasn't linked to the bank's specific balance
9 sheet. The CD's performance was linked to a basket of
10 underlying managers that they had picked.

11 Now, I'm not saying some of those managers may not have
12 been in this thing, but they're -- they're not the same. I
13 mean, it's saying -- let's see if I can give you an analysis.

14 Q. The next paragraph, after the one we were reading, says,
15 "By investing depositors' funds and" --

16 A. I'm sorry, same page?

17 Q. Yes, same page.

18 A. Okay.

19 Q. "By investing depositors' funds and the majority of its
20 equity, the Bank maintains liquid assets well in excess of the
21 depositor liability."

22 A. Uh-huh.

23 Q. Now, that doesn't sound consistent with what you
24 described, which is having -- taking the money from the
25 investor and putting it into these hedge fund type

1 investments.

2 A. No, it does. It says, "By investing depositors' funds,"
3 which you can say is CDs, if you want, for the sake of ours
4 and whatever equity the bank actually has --

5 Q. Right.

6 A. -- to maintain -- in excess of the depositor liability --
7 liquid assets in excess of depositor's liability.

8 Q. Right. So I guess it depends what you mean by liquid
9 assets.

10 A. Right.

11 Q. I thought you said --

12 A. Exactly.

13 Q. -- earlier the types of investments you were describing
14 would not be described as liquid investments.

15 A. You know, liquid is a -- is a time horizon. Typically
16 illiquid investments are real estate, private equity,
17 essentially closed end funds, because you actually have no
18 redemption terms in those.

19 I mean, you know, you invest in Kleiner Perkins private
20 equity fund, and ten years from now you get what you get.
21 Right?

22 Hedge funds were sometimes called semi-liquid, sometimes
23 they were called liquid, because typically they were anywhere
24 from, you know, 90 days' notice quarterly, 90 days' notice
25 semi-annually, some were even 30 days' notice. So they

1 were -- they weren't daily liquidity, but they were, you know,
2 liquidity in a, you know, 90 days quarterly. Give notice by
3 December 31st and you had your money by March 31st.

4 Q. Was that the highest degree of liquidity you could have?

5 A. No. You can have daily liquidity, sure.

6 Q. Okay. Okay. So we're back to Plaintiff's Exhibit 32,
7 which is an email from yourself to Tonya Dokken, dated May
8 22nd, 2006, and I'd asked if you recognized it.

9 A. Okay. Do I remember the email? No. But does it -- does
10 sending an email to Tonya surprise me? No, not at all.

11 Q. Do you know how -- we'll look at the article here in a
12 second, but did you have any kind of a news alert request
13 related to Stanford?

14 A. No, I don't think so.

15 Q. Do you recall whether you read the article at the time?

16 A. I probably -- I mean, if I sent it to her, I must have
17 read, if not all of it, most of it because otherwise if I
18 didn't think it was worthwhile, I wouldn't have sent it to
19 her.

20 Q. Okay. Did you see -- directing your attention to the
21 bottom of page 13152, do you recall seeing the following
22 statement? This is the last paragraph on the page.

23 "'That's where he ran into problems with U.S.
24 investigators. In 1999, stanford Financial tried to take over
25 Antiguan International Business Corp., which regulated

1 offshore companies on the island,' referring to Antigua," said
2 Jonathan Weiner, who was then a deputy assistant Secretary of
3 State."

4 Do you recall seeing that?

5 A. No. I mean, if I read the article, clearly I did, but I
6 think the article was more interesting because he -- I think,
7 if I remember, he donated money to Stanford on the proposition
8 that he thought he had a link to Stanford, and Stanford didn't
9 really think he had a link to Stanford. But I have to look at
10 this and see if my memory's correct.

11 Q. Unquestionably that's a part of the article. But did
12 you -- but if you -- my question is, would it have been
13 significant to you that Mr. Stanford and his entity was trying
14 to regulate essentially his own company?

15 A. No. Because, you know, just from the looks -- just from
16 reading the article, it was 1999, and we're already in 2006,
17 and it sounds like he didn't succeed.

18 Q. Did you make any further investigation about those
19 allegations or what may have come --

20 A. No.

21 Q. -- of it?

22 Did Ms. Dokken ask you to make any further investigation?

23 A. No, not that I remember.

24 Q. Did you suggest to Ms. Dokken that she should make any
25 further investigation?

1 A. Not that I remember. Oh, yeah, it says the whole thing
2 was over in '01.

3 Q. Did you -- and you're referring to which page?

4 A. It says the -- the next page, 13153. It says
5 U.S. -- "The U.S. advised financial institutions to be
6 suspicious of transactions with Antigua banks, a warning that
7 was lifted in August 2001" -- oh, that's just about -- fight
8 money laundering. Oh, it didn't mention Stanford
9 specifically.

10 Q. So that's not referring to Stanford when it talks about
11 the --

12 A. Well --

13 Q. -- advisory being lifted?

14 A. -- it doesn't say it is or isn't. Yeah, it's sort of
15 silent.

16 Q. And the follow-up question I had was with respect to did
17 you do any investigation. Was there any reason you could not
18 have done an investigation at the time that you were aware of?

19 A. That I couldn't have?

20 Q. Right.

21 A. I have no idea. It would probably be dependent upon what
22 public versus private rules Antigua has on this kind of stuff.

23 Q. Well, but any investigation in the press, in the popular
24 press or anything that was available from the --

25 A. No --

1 Q. -- Department of State?

2 A. -- not that I remember.

3 Q. Did Mr. Magness or any of his representatives ask you to
4 keep tabs on the Stanford International Bank?

5 A. Not that I remember today, no.

6 Q. Let me ask you about the conclusion of the relationship
7 between Quellos and the Magness group. Let me show you
8 Plaintiff's Exhibit 318.

9 This is a termination agreement dated March 31st, 2007,
10 between Quellos Capital Management and Quellos Financial
11 Advisors, on the one hand, and Gary Magness Irrevocable Trust
12 on the other hand.

13 A. Okay. So we're missing a document.

14 Q. What are we missing?

15 A. Let me see where it is again.

16 Q. Oh, the February 18th, 2005 agreement?

17 A. Yeah, February 18, 2005, because you showed me an '03,
18 and I said is there -- was this continuous or not. And this
19 represents something that was signed in '05, which we haven't
20 seen yet.

21 Q. Uh-huh.

22 A. So this one must have terminated or never got executed,
23 one of the two.

24 Q. The draft was June 2001. That was Plaintiff's Exhibit
25 314.

1 A. Okay. So maybe we don't have a signed engagement letter
2 from Gary until '05.

3 Q. Okay. And so there's -- in this reference to Plaintiff's
4 Exhibit 318, there is some kind of an agreement between
5 Quellos and the Magness Trust from February 18, 2005.

6 A. Right.

7 Q. And this termination agreement dated March 31st, 2007, is
8 terminating that agreement.

9 A. Correct.

10 Q. Let me just ask it this way. Do you think the
11 relationship between Quellos and the Magness group continued
12 on in any respect after March 31st, 2007?

13 A. No, I don't think it continued on.

14 Q. So why -- what --

15 MR. PETRIE: It goes on for a while, Your Honor. We
16 just saw it was 10:30. That's why we stopped.

17 THE COURT: Okay. We'll take our morning break now
18 and see you-all back in 20 minutes.

19 (Whereupon, the jury left the courtroom.)

20 THE COURT: Recapping what I mentioned at sidebar, I
21 have to confess I made a large and embarrassing arithmetic
22 mistake at the end of the day yesterday in the Receiver's time
23 as of the end of the day which I told you was 235 and in fact
24 it's 335. I think you indicated my error was of such a large
25 magnitude, that you were already aware of it.

1 MR. SADLER: And what does Your Honor have for the
2 Defendants?

3 THE COURT: 501, for a total of 836.

4 MR. SADLER: We have, if I'm reading this correctly,
5 547 for Plaintiff and 824 for Defendant.

6 THE COURT: That's not possible. The total that I
7 have cumulative is 836, and if you look at -- I was predicting
8 five hours a day, and we were nowhere close the first day, and
9 we've been doing about six hours a day since then. So we're
10 about an hour off pace as of the end of the day yesterday,
11 which is consistent with 836. And if you -- I'm sorry. What
12 were your two numbers again?

13 MR. SADLER: And I want to be sure I'm reading this
14 correctly, but what we have down is the total through --
15 through yesterday is five hours and 47 minutes for the
16 Plaintiff, eight hours and 24 minutes for the Defendant.

17 THE COURT: Okay. I misunderstood your -- I just
18 did mine in total minutes --

19 MR. SADLER: I see. I see. Okay.

20 THE COURT: -- instead of hours and minutes.

21 MR. SADLER: Are we --

22 THE COURT: So this -- you're at 347 minutes and I
23 have you at 335 minutes, so we're about ten minutes off.

24 MR. SADLER: Okay.

25 THE COURT: And you show the Magness parties at 507,

1 and I show them at 501. So we're a little bit off, but we're
2 in the ballpark, though I claim the prerogative of being the
3 official clock.

4 MR. SADLER: Understood, Your Honor. Understood.

5 THE COURT: And you're welcome to look at my time
6 tally if you want to. But we're pretty close.

7 MR. SADLER: It sounds like we're back in the
8 ballpark.

9 THE COURT: Yeah. Is that consistent with you-all's
10 numbers?

11 MR. PETRIE: I couldn't find them as I scrambled
12 here, but I'll check them.

13 THE COURT: Okay. My apologies. I added two plus
14 one and got two.

15 MR. PETRIE: I have a question, if I may, Your
16 Honor.

17 THE COURT: Yes.

18 MR. PETRIE: So that we can structure the rest of
19 our day, we have the open issue about the other depositions.

20 THE COURT: Yes. I've reviewed those and reviewed
21 the motions. And I think, on reading the transcripts and
22 thinking about the cases, I believe the Receiver had a
23 sufficiently adequate incentive to cross that I'm going to
24 permit them. And I've got rulings on the objections noted
25 here that I'll deliver to whoever wants them.

1 MR. PETRIE: Thank you, sir.

2 MR. SADLER: So may I, just for the record, so our
3 motion to exclude those depositions is denied.

4 THE COURT: Correct.

5 MR. SADLER: Thank you.

6 THE COURT: And I think it certainly was an attempt
7 to evade the Court's ruling, but on the other hand that's what
8 good lawyers do. They work around courts' rulings So --

9 MR. SADLER: It happened yes.

10 THE COURT: There you go.

11 MR. SADLER: I was right there to see it.

12 THE COURT: There you go. Anything else we need to
13 take up?

14 MR. SADLER: No, sir.

15 MR. PETRIE: No. Thank you.

16 THE COURT: We'll see you, I guess, in 18 minutes.

17 (Brief recess.)

18 THE COURT: All set?

19 MR. SADLER: Judge, there is a technical issue we're
20 trying to work out that the documents are not coming up as --
21 as they should, but I -- he's in the middle of trying to fix
22 that right this minute.

23 MR. PETRIE: Well --

24 MR. SADLER: Oh, I'm sorry.

25 MR. PETRIE: -- it's not that simple, Your Honor.

1 We've been exchanging clip reports. The clip reports are
2 the -- you know, what bits and pieces of the deposition of
3 people are going to show, and on them showed the cull-out for
4 exhibits.

5 Now we've had a request to add in exhibits when they've
6 had the clip report and not given that to us. And so it
7 creates to say a scramble would be polite. And some of them
8 haven't been admitted, and it's a new issue that's now just
9 been presented to us. And so I understand we're about to come
10 up on some of these exhibits in the testimony, so it creates a
11 bit of a clog.

12 THE COURT: Well, we may have to proceed without
13 them. How much longer is it going to take to fix this?

14 MR. PETRIE: Well, I'd have to ask, Your Honor. The
15 problem is that there's also evidentiary issues with some of
16 the documents that haven't been addressed because they weren't
17 teed up as ones that were going to be culled out in this
18 gentleman's testimony.

19 THE COURT: Okay. Let's just proceed as is then.

20 MS. MENTZ: We are trying to accommodate so we put
21 as many in as we could in the last ten minutes.

22 MR. PETRIE: I am sure Your Honor heard, in order to
23 try and accommodate that request, we've put in as many as we
24 could over the break, but we haven't completed that. So it's
25 half un -- we're half fixed, if that's a fix. But --

1 THE COURT: Okay. Let's go with half fixed.

2 MR. POWERS: And, Your Honor, we're prepared to
3 proceed on that basis. Thank you.

4 THE COURT: Okay. Let's bring them in.

5 (Whereupon, the jury entered the courtroom.)

6 THE COURT: Be seated.

7 Let's proceed.

8 CHARLES WILK, BY VIDEOTAPE DEPOSITION continued,

9 Q. So why -- what is the reason for the termination of the
10 relationship between Quellos and the Magness people on March
11 31st, 2007?

12 A. Well, I -- I don't actually know. It could have been
13 that Gary decided he was done, but it would have coincided,
14 plus or minus a couple of months, with McCutchen taking his
15 group and Andy taking his group, because I think they did that
16 by May-June-July, June-July-August of '07.

17 Q. So in this time frame Quellos was getting some negative
18 publicity around its tax shelter business. Right?

19 A. I don't know. I'd have to go back. Probably. I mean,
20 could have been. I don't know. I'd have to look at --

21 Q. Let me show you --

22 A. -- current articles.

23 Q. Let me show you Plaintiff's Exhibit 324, which is a *New*
24 *York Times* article dated August 1st, 2006, entitled Tax Cheats
25 Called Out of Control. Is this something that you've seen

1 before?

2 A. I'm sure I did back in those days.

3 Q. Okay. And just looking at the second page, there's a
4 reference to, the third paragraph, it's referring to a Senate
5 report, and it says, "The report details how the Quellos
6 Group, a tax shelter boutique based in Seattle, 'concocted a
7 tax shelter' using \$9.6 billion 'worth of fake securities
8 transactions that were used to generate billions of dollars of
9 fake capital losses.'"

10 Is that -- do you recall those kinds of allegations --

11 A. Oh, sure.

12 Q. -- being available in the public in the fall of 2006?

13 A. Sure.

14 Q. Did you ever discuss any of these allegations with the
15 Magness group?

16 A. I could have. Don't -- I mean, do I remember a specific
17 conversation? No. But easily could have because we were
18 happy to talk about it.

19 Q. Did it have anything to do with the decision to terminate
20 the agreement between Quellos and the Magness people?

21 A. I don't have a clear recollection of whether Gary wanted
22 to terminate or whether we were terminating.

23 The timing happens to coincide with when we were winding
24 down the family pri -- the family -- Quellos Financial
25 Advisors, and Matt was taking his group and Andy Robbins was

1 taking his group. So -- and we had to have a conversation
2 with tons of clients.

3 And if Gary said, I really don't want -- and actually it
4 would have made sense, because Gary primarily dealt with me
5 and a little bit with Conrad Gehrman. Conrad Gehrman had
6 left Quellos a year and a half before or something like that.

7 So it may have been that Gary just said, well, I don't
8 really know Matt and I don't really know Andy, so I'm happy to
9 just end the engagement.

10 It had to do one or the other. Either clients needed to
11 go with Andy or go with Matt, or -- well, in all cases we
12 terminated everybody's agreement.

13 But the clients, we'd either do a very nice hand-off to
14 Andy or a very nice hand-off to Matt, if that's what the
15 clients wanted. But if they just wanted to terminate and go
16 do their own thing, then we just terminated the agreement and
17 they just went off and did their own thing.

18 Q. Let me show you Plaintiff's Exhibit 323. And this refers
19 to a federal -- federal prosecutors conducting a criminal
20 inquiry into Quellos in April of 2007. Do you recall whether
21 you alerted Mr. Magness to the criminal inquiry related to
22 Quellos?

23 A. Oh, this is the KPMG stuff. Yeah. It's both, I guess.
24 No. Hold on a second. This is primarily Flip and Opis, it
25 looks like. Okay. So anyway -- I'm sorry. What was the

1 question?

2 Q. So the question was, do you recall discussing the fact
3 that Quellos was under criminal investigation in April of 2007
4 with Mr. Magness?

5 A. I mean, I don't remember, like having a formal
6 conversation with him, but we never hid any of this stuff that
7 was in the press and we were always happy to talk to clients
8 about it.

9 So, I mean, could have talked to him, could have talked
10 to Tonya, could have talked to Steve. Actually did talk
11 to -- but he's not an employee. Did talk to Ray Sutton
12 because Ray was kind of interested and had seen the articles.

13 Q. And when was that?

14 A. Oh, I don't remember specifically. I talked to Ray all
15 the time.

16 Q. You said he was interested in seeing the articles?

17 A. He is interested because he had seen the articles.

18 Q. Oh, he had seen the articles.

19 A. Yeah.

20 Q. And he had asked you questions about it.

21 A. Yeah.

22 Q. Okay. Was this approximately -- from a timing
23 standpoint, is this toward the time these articles came out --

24 A. Oh --

25 Q. -- or much later?

1 A. Don't have a -- I don't have a clear enough recollection.

2 Q. But he had seen some articles about this issue, this --
3 this investigation of Quellos, and he had asked you questions
4 --

5 A. Well, and I actually remember Tom Espy had asked some
6 questions because he had seen some articles. Yeah.

7 I mean, this had been going -- well, because if you look
8 at whatever this last one was, 323, this Flip and Opis stuff
9 was stuff that Quellos had done with KPMG and
10 PricewaterhouseCoopers, those transactions, so those were like
11 '97.

12 Q. But, in any event, you do recall at some point Mr. Espy
13 and Mr. Sutton asking you about the press around these issues?

14 A. Uh-huh.

15 Q. And these issues meaning the issues that are identified
16 in Plaintiff's Exhibit 323 and 324?

17 A. Yep.

18 Q. I have a couple of things that might help on the question
19 about Bob Armstrong and when he came on board, so let me show
20 you Plaintiff's Exhibit 41, which is a Mango Five Family
21 meeting dated February 26, 2007. You are listed as one of the
22 attendees.

23 A. Oh, okay.

24 Q. Turning back to the first page, we have a discussion of
25 Liberty Media and affiliates. And the first sentence talks

1 about a report from Gary about the stock performance of
2 Liberty Media and its affiliates, and that you offered
3 comments and affirmed your agreement with Mr. Magness'
4 continuing activities to reduce the concentration of all the
5 trusts' positions in Liberty stock.

6 Do you remember that discussion?

7 A. I don't remember that specific discussion, but you -- if
8 you could find my notes, you'll probably see that in 80
9 percent of my correspondence with Gary.

10 Q. Agreeing with his --

11 A. Well --

12 Q. Go ahead.

13 A. Egg or chicken. Him agreeing with me or me agreeing with
14 him, but, yeah.

15 Q. Encouraging him to diversify.

16 A. Yeah. Yeah. Now, the truth is John Malone helped him a
17 lot because John essentially diversified that concentrated
18 Liberty position by all the splintering that went on, LBTYA,
19 LINTA, DirectTV, blah, blah, blah. Albeit, and this was my
20 argument, it still was all in the media sector. So it wasn't
21 like they went and got in the medical and technology, you
22 know. So it was more diversified, but still all within the
23 media sector.

24 Q. But he was using -- he was definitely doing some
25 liquidation of his Liberty stock in this time period.

1 A. Yeah. I mean, you'd to go back and look at the trail. I
2 don't know that it's going to be massively substantial. He
3 was -- he was a reluctant seller. You know what? With
4 hindsight, which is 20/20, he was right. Right? The stock
5 has been a very good performer, John's a great steward of
6 shareholder equity, and Gary wasn't a huge fan of liquidating
7 big positions, so --

8 Q. So would him selling over \$100 million of Liberty stock
9 in 2007, would that be surprising to you?

10 A. Not without -- I mean, no, because I'd actually have to
11 look at what were the -- '07. I don't know if it was at HSBC
12 yet. But if it was, you know, I'd have -- oh, and Merrill,
13 too. I'd have to look at the debt levels and stuff like that.

14 Because, honestly, he could easily and did run 300 plus
15 million dollar credit facilities. So a hundred million,
16 that's a third of the debt. And if he paid down the debt, you
17 know, that would have been prudent. So -- because he drew
18 up --

19 Q. I didn't --

20 A. -- the debt and --

21 Q. -- mean for it -- I didn't mean to suggest it would be
22 shocking or unwise --

23 A. Oh.

24 Q. -- but just whether, when you said you didn't think he
25 would sell that much, I was just wondering if -- what you

1 meant by that.

2 A. Oh, oh, I'm sorry.

3 Yeah. Well, going back earlier in our day, like Deutsche
4 Bank wanted, I don't remember the exact number, it could have
5 been \$400 million of debt, and Liberty wasn't as valuable
6 then. I mean, they were talking about 400 million. I mean,
7 that was -- I don't remember, but it could have been 30, 40,
8 50 percent of the Liberty. I mean, that was -- this would
9 have been a hundred million, he probably had at least 800
10 million, I would bet, in Liberty stock. So, you know, it's an
11 eighth. It's not --

12 Q. It's not nothing. I mean, a hundred million dollars is a
13 lot of money.

14 A. Well, it is, but it's one-eighth. Right? It's 12
15 percent of your holdings. It's not -- it all seems -- when
16 you -- you know, the -- and I remember when I started in this
17 business, you know, \$10,000 seems like a big number if I've
18 got to go home and pay my bills. \$5,000 seems like a big --

19 But, you know, when you're talking about, you know, a
20 hundred million on a billion-three, you know, you've kind of
21 got to put it in percentage terms or otherwise it just seems
22 mind-boggling.

23 Q. All right. Let me show you Plaintiff's Exhibit 133.

24 These are meetings of the investment committee of Mango Five
25 dated October 1st of 2007.

1 I would direct your attention -- I'd note first you are
2 not listed as an attendee.

3 A. Oh, I'm not?

4 Q. But then I'll direct your attention to paragraph 7,
5 Miscellaneous Items, which reads, "Mr. Magness asked Ms.
6 Dokken to request that Mr. Tom Espy prepare a full report for
7 the investment committee's next meeting discussing the status
8 of the certificate of deposit program in Antigua, and further
9 requested that Ms. Dokken inquire of Mr. Chuck Wilk as to how
10 the certificate of deposit program could be further
11 investigated."

12 Does that ring any bells?

13 A. Not really, no. I mean, she may -- I don't know. How
14 the certificate program could be further investigated. I mean,
15 she may have called.

16 My guess is, if she called, I would have said, well, can
17 you get me more information?

18 Q. What kinds of information would you have wanted her to
19 get if you -- if she had made that phone call?

20 A. You know, how is the CD program going? What does the
21 balance sheet of the bank look like today versus when you
22 invested in it? How have the underlying -- have they finally
23 told you what the underlying in managers were?

24 Because, again, I -- what I looked at, it looked more
25 like marketing, so it didn't have manager names or weighting

1 or descriptions of their strategies or anything like that.

2 So, you know, what you got now? Because from what I'm
3 learning or what I'm remembering, they've had the CDs for,
4 what, almost two years by October of '07?

5 Q. Yes.

6 A. Yeah. So I mean --

7 Q. Or more.

8 A. -- you know, what other -- huh?

9 Q. Or more, yes.

10 A. Or more. So, you know, what do you got? I mean, you
11 want to investigate it, what do you got that, you know, we can
12 look at?

13 Q. What else? I mean, what are the kinds of things you
14 would have done if you, just as an investment advisor and you
15 -- somebody comes to you and says, I've got this investment
16 you've never heard of, what are the kinds of things you look
17 at?

18 A. If I'm buy -- there's at least two components. I'm
19 buying a note or a CD from a bank, so what does the bank look
20 like, right? Because, in essence, that's your first line.
21 Right? Because they're just -- it's essentially an unsecured
22 obligation of the bank.

23 The second is the performance, though, of that CD is
24 linked to the performance of this investment pool, so what
25 does the investment pool look like, and how has the investment

1 pool been doing.

2 And something that we were always careful of at Quellos,
3 and it came to -- to bear fruit for the firm -- actually by
4 then that was BlackRock -- is, are they offering -- is the
5 bank offering you terms, and primarily liquidity terms, that
6 differ significantly from what the underlying managers are
7 offering the bank.

8 That make sense?

9 Q. So those are the kinds of things you would want to know
10 if you had been asked to investigate?

11 A. Right.

12 Q. And what if you just hit a brick wall, you just got no
13 more information than the information you got when you first
14 heard about it? What would your advice have been to the
15 Magness people?

16 A. Well, let me -- let me try to see if I got your question
17 right. When you say hit a wall, hit a wall I couldn't get it
18 from Magness or hit a wall I couldn't get it from Stanford
19 Bank?

20 Q. Either one.

21 A. Okay. Well, if I can't get it from the client, then,
22 okay, well, then, you know, you guys are kind of -- I can't
23 give you any feedback --

24 Q. Sure.

25 A. -- because I've got no information.

1 If they said, we'll put you in contact, or, here, we'll
2 introduce you to them, or however you do it, so it -- because
3 the first thing the bank should say is, we don't know you from
4 Adam, we're not sharing anything.

5 But if I got the proper introductions, and then as I'm
6 asking the questions of whoever it is is the appropriate
7 person, and, you know, we're not going to tell you who the
8 managers are, but we'll disclose what their strategies are?
9 Okay.

10 We won't tell you what the managers are, and we won't
11 disclose the strategies, and we won't give you the weighting,
12 and we won't give you the liquidity terms, and we won't share
13 our balance sheet, and on and on and on, I mean, eventually I
14 gotta go back to Tonya and say, hey, they're not providing
15 anything, I can't do any due diligence on this thing.

16 Q. So what's the consequence of that?

17 A. Well, I mean, the consequence is they got to decide. I
18 mean, you know, I -- I didn't have the -- and then we never
19 did. I don't have discretion over the client's assets. I
20 don't make the investment decision. I can only give them
21 advice.

22 And, you know, you used the name, Gary thought I was the
23 paid pessimist, so I guess he assumed I was going to give him
24 the negative advice, which is fine because I think that's part
25 of my job.

1 Ultimately Gary has to say, I trust Chuck's instincts, or
2 I trust him but I'm going to overrule him, or I think he's too
3 pessimistic all the time and I'm going to overrule him.

4 Q. Plaintiff's Exhibit 56 is an email from February 5th,
5 2008, from Tonya Dokken to Tom Espy.

6 A. Okay. Well, actually this isn't even signed until
7 January of '08, so maybe it was in response to this, but I'll
8 read it. Oh, I see. Okay.

9 Okay. I mean, I'm making a link, but it looks consistent
10 with this paragraph 7.

11 Q. So did you -- you don't recall knowing about this
12 request?

13 A. No.

14 Q. There was a meeting scheduled with Juan
15 Rodriguez-Tolentino by phone that took place in March of 2008,
16 so just a little over a month after this.

17 Do you recall being on that phone call?

18 A. I don't.

19 Q. Also, so do you recall being on a phone call with any of
20 the Mango Five people in March of 2008 --

21 A. No.

22 Q. -- with Mr. Rodriguez-Tolentino?

23 A. No. I don't remember ever speaking to this guy. Matter
24 of fact, of the names you rattled off, it was the one that
25 didn't even ring a bell.

1 Q. Plaintiff's Exhibit 62. These are the minutes of a
2 meeting of the investment committee of Mango Five. The
3 meeting was held March 6, 2008. And if you can see the
4 discussion with Mr. Rodriguez-Tolentino referenced at
5 paragraph 5 --

6 A. Okay.

7 Q. -- on page 3.

8 A. Okay. I can speculate, but that's probably all --

9 Q. Well, so I just -- all I really want to know is if that
10 rings any bells that suggests that you were actually on this
11 call.

12 A. Oh, no, it doesn't ring any bells, no.

13 Q. Okay. No, I don't -- I don't need you to comment on what
14 happened. I just wanted to make sure --

15 A. Oh, okay.

16 Q. -- you weren't there.

17 A. Oh, I'm sorry.

18 Q. That's fine.

19 A. No. As a matter of fact, it makes me more certain I
20 wasn't on the call.

21 Q. Leading up to February 2009, there were some decisions
22 that the Magnesses made regarding getting money out of
23 Stanford and what to do with the investments and addressing
24 some of their margin debt situations.

25 Did you have any involvement with that as it was

1 happening?

2 A. No.

3 Q. Nobody consult -- from Magness consulted with you on any
4 of those issues?

5 A. No.

6 Q. I'll show you Plaintiff's Exhibit 114.

7 A. Oh. So March really became April. Okay.

8 Q. Yeah.

9 A. It appears --

10 Q. Let me ask you about the discussion about Stanford, that
11 says there was a report of Stanford, and the first line says,
12 "Mr. Magness reported that Mr. Espy confirmed that GMIT's loan
13 from Stanford Bank had been paid in full by setting off the
14 Stanford certificates of deposit placed with the bank."

15 And then it says, "Mr. Wilk, Mr. Espy, and Mr. Sutton
16 reported on their findings with respect to the status of the
17 Stanford receivership."

18 Do you recall making any investigation of the Stanford
19 receivership?

20 A. Not other than what I read in the public press.

21 Q. What do you recall saying, if anything, about the
22 Stanford receivership at this meeting?

23 A. I -- there couldn't have been much that I could add, I
24 mean, other than what was in the press. I mean, I didn't have
25 any -- the only -- and this is huge speculation -- is a

1 Quellos client had also been a Madoff investor, because Madoff
2 blew up before Stanford.

3 And the only thing could have been that I said, well, I
4 don't have a lot of experience, but we have a client who got
5 -- who's involved in the Madoff mess, and if anything, you
6 know, this will probably be an equal mess.

7 Q. What did Mr. Magness tell you about, if anything, about
8 his thoughts about what had happened with Stanford?

9 A. I don't remember Gary espousing much about -- this
10 was -- I'm reading this. But -- yeah. No, I don't remember
11 anything -- you know, any -- yeah. No, nothing that I
12 remember from Gary.

13 Q. Well, did anybody during the time that you were
14 consulting, starting in April of 2009 and going forward until
15 about 2011 -- do I have that right?

16 A. I think so.

17 Q. Okay. In any time in that window, did anybody from the
18 Magness group talk to you about when they became concerned
19 about Stanford potentially being fraudulent or insolvent?

20 A. No. Our discussions were all about -- well, the first of
21 the discussions were getting me sort of up to speed.
22 They -- and I'm doing this off the top of my head. They tried
23 to redeem. Stanford called back and said, can we make it a
24 loan. I don't remember all that transpired there. Then they
25 made it a loan. Then ultimately it turned to a redemption,

1 blah, blah, blah.

2 But by the time I'm back in the picture, they've got most
3 all, some--I don't know that I remember--of the cash. Then
4 the receiver is appointed. I don't remember what date that
5 is.

6 Q. I asked you before about some of the negative press
7 around Quellos. I need to ask you about this -- this plea
8 agreement and criminal conviction.

9 A. Uh-huh.

10 Q. This is Plaintiff's Exhibit 308. Is this your plea
11 agreement with the U.S. government?

12 A. Without reading it, probably.

13 Q. Just take a moment, please.

14 A. Oh, yeah. I mean, I -- yeah, it looks, essentially
15 without really bothering just to read every single page of it,
16 but yes.

17 Q. Is that your signature on the last page of the exhibit?

18 A. Yes.

19 Q. And looking at the first page, what you are pleading
20 guilty to is conspiracy to defraud the United States and
21 aiding and assisting in the filing of a false return?

22 A. Yes.

23 Q. And turning to page 5, which has the Statement of Facts,
24 looking at -- starting at line 18, you agreed to the following
25 facts: "To accomplish the objective of this conspiracy,

1 Jeffrey Weinstein and Charles Wilk worked with individuals at
2 European American Investment Group to create fictitious losses
3 through the purported purchase and sale of 'synthetic' stock
4 with a paper value exceeding \$9.6 billion between two Special
5 Purpose Vehicles, Isle of Man businesses, Jackstones, Ltd.,
6 and Barnville, Ltd., which had no assets."

7 Is that right?

8 A. Yes.

9 Q. And then the next sentence, "In truth there was no actual
10 stock; no purchase and sale of actual stock; no payment for
11 actual stock, and no basis in stock."

12 Is that accurate?

13 A. Yes.

14 Q. So this is dated September 10th, 2010. When -- when was
15 the first time, if ever, that you discussed any of the matters
16 that are described in the Plea Agreement with Mr. Magness?

17 A. Oh, just what was in the Plea Agreement or the
18 transaction that led to the Plea Agreement?

19 Q. The transaction that led to the Plea Agreement.

20 A. Oh, probably by -- for sure by '09, maybe even -- oh,
21 let's see. '09, '07, 08 -- yeah, for sure by '09, or sometime
22 in '09. I'd have to go back and figure out exactly when I
23 started dealing with the prosecutor.

24 Q. When did you first become aware that you were personally
25 under investigation criminally?

1 A. I don't remember the date.

2 Q. Was it 2009, 2010, or was it farther back in --

3 A. No. It was like around, like -- I don't remember. It
4 could have been late -- I don't even know if that's right.
5 Could it have been late '08? Probably more like '09, '10.
6 When was this signed? September of '10. All of '10. Oh,
7 yeah, so probably '09, yeah.

8 Q. 2009?

9 A. But, yeah, Gary knew during the whole time that I was
10 consulting.

11 Q. The time you were consulting individually.

12 A. Yeah. Because that was about the time frame. Maybe it
13 was slightly before, but yeah.

14 Q. And did he know -- does any of this refresh your
15 recollection about whether he knew that Quellos was being
16 investigated back while you were with Quellos?

17 A. Oh, I'm sure he did, sure.

18 Q. That Quellos was being investigated.

19 A. Yeah. Because there was a lot of press and -- and we
20 sort of proactively talked to our clients about it.

21 Q. And the Isle of Man is an island in --

22 A. Off the British coast.

23 Q. Off the British coast. And there was some involvement
24 also with entities in the Cayman Islands. Is that right?

25 A. Yeah, that may be right. I'd have to think about that.

1 I'm not sure.

2 Q. This Plaintiff's Exhibit 310, this is -- this is a copy
3 of your -- the judgment in your criminal case finding --

4 A. Yeah, probably.

5 Q. -- or entering judgment on the defenses we just
6 described?

7 A. Yeah. I think so, yeah.

8 Q. And sentencing you to a term of 50 months imprisonment --

9 A. Yep.

10 Q. -- which I take you've completed.

11 A. Yep.

12 Q. Just to make sure I understand, you did agree to the
13 Statement of Facts that is described in the plea agreement in
14 308, Plaintiff's Exhibit 308?

15 A. I signed the document.

16 Q. And you accepted responsibility for the conduct that's
17 described in the document.

18 A. Absolutely. And I lived up to my part of the bargain.

19 Q. In your discussions with Mr. Magness about Stanford, did
20 the subject of Stanford being in an offshore -- in an offshore
21 jurisdiction ever come up?

22 A. Well, yeah, it's an Antigua bank. So, yeah, clearly we
23 knew it wasn't a domestic bank.

24 Q. But did that come up as a source of concern, that it was
25 an offshore jurisdiction?

1 A. Concern. I mean, I definitely said, you know, not that
2 I'm a banking expert anyway, but I'm clearly not an Antigua
3 banking expert, so I don't know the rules and regulations in
4 Antigua.

5 I do remember saying, you know, if it was CDs issued at a
6 U.S. bank, right, we've got the FDIC and, you know, whether
7 you believe in the full faith or credit of the U.S.
8 government, you've got the FDIC.

9 My guess is there's no version of the FDIC in Antigua,
10 but I didn't know that. I mean, that kind of was the point,
11 was we don't really know all the ins and outs of Antiguan law.
12 Whereas if we were buying a U.S. CD, we'd probably feel --
13 even then, honestly, most people don't know all the in and
14 outs of the banking laws and regulations, but they feel like,
15 you know, they got some protection.

16 Q. And one of the -- one of the risks associated with being
17 in one of these offshore jurisdictions, whether it's the Isle
18 of Man or the Caymans, or maybe less of the Caymans, but
19 Antigua, there's a fraud risk associated with being in one of
20 those jurisdictions.

21 A. Yeah, it's a fraud risk being domestic.

22 Q. Right.

23 A. I mean, you know, you can -- every -- well, not so much
24 these days it seems, but there was a period where, you know,
25 every third article seemed to be about some guy in Florida or

1 some guy in Ohio or some guy somewhere who, you know, was
2 running money for somebody, but really wasn't and was living
3 the high life and blah, blah, blah.

4 So, yeah, domestic, foreign, it doesn't seem to make a
5 difference.

6 Q. Well, certainly there's -- whether there's a zero risk in
7 one jurisdiction or another, would you agree that if you're in
8 a more lightly-regulated jurisdiction, that the fraud risk is
9 greater?

10 A. You know, maybe arguably.

11 But, you know, you know, if you -- if you think about
12 Madoff, which was probably one of the biggest ones, that guy
13 was sitting in New York. So, you know, honestly that kind of
14 disproves that theory. It's sort of like, you know, if
15 somebody's going to do it, they can do it from anywhere.

16 Q. So from your perspective, you would be indifferent to
17 the -- to the idea that -- you would say there's no greater
18 fraud risk in the United States versus in Antigua versus any
19 other place?

20 A. Yeah. I mean, honestly, I think it's kind of borne out
21 by the facts, too. It doesn't really seem that the -- that
22 it's isolated to a jurisdiction or offshore versus -- I mean,
23 Madoff was huge. Stanford, even though if it was an Antigua
24 bank, had U.S. presence. You've got all these smaller, quote,
25 Ponzi schemes or bad investment schemes that have popped up in

1 different states. But you also have some that are not U.S.

2 So I don't know. I think it would be hard to draw a
3 conclusion that it makes it any riskier.

4 Probably what it may make it is harder to chase them
5 after the fact. But whether it makes it easier or harder to
6 do, I don't know. That would be -- the facts I'm not sure
7 bear that out.

8 Q. Earlier today you testified that there were investment
9 vehicles with similar characteristics to what you saw from the
10 bank. In particular you mentioned UBS and Credit Suisse?

11 A. Uh-huh.

12 Q. Can you describe those investment vehicles for me?

13 A. Sure. And actually -- yeah, investment vehicles,
14 investment products. There was a decent business that could
15 be done by the non-U.S. banks, even if they had a U.S. bank
16 presence, by being an intermediary to allow derivative
17 exposure to assets that were complicated for -- well, it
18 didn't have to be U.S. taxpayers, but complicated for
19 investors to get. So we'll talk about U.S. taxpayers, and we
20 didn't earlier.

21 If a U.S. taxpayer, and taxpayer being the key because if
22 you were not tax -- you know, if you were a pension or an
23 endowment, you didn't care -- but a U.S. taxpayer wanted to
24 access some offshore fund of funds, more than likely they
25 weren't going to take that investor's money because they don't

1 keep tax books--we already talked about, U.S. tax books--so
2 you couldn't make your QEF election on your PFIC.

3 But you could enter into a contract with UBS. It could
4 be a note, it could be a swap -- I don't -- I never saw
5 something denominated as a CD but maybe it was out there --
6 where UBS would say, okay -- you could do it a couple ways --
7 UBS say, fine, you give me \$10 million, I'll give you a note
8 for \$10 million. The economic performance of that \$10 million
9 would link to this offshore fund of funds that you wanted
10 exposure to anyway, but you're facing UBS. And so you, the
11 U.S. taxpayer, have the full faith and credit of UBS, so
12 you're facing this entity.

13 Whether UBS does or doesn't hedge their risk is up to
14 them. As a U.S. investor, I think you're hoping they do, and
15 typically they did.

16 So the \$10 million would go to UBS, UBS would take --
17 would turn around and invest it in whatever that fund of funds
18 was, which is called a Delta One hedge because they'd invest
19 all \$10 million in it. And that way the fund goes up or down,
20 when it matures, they could just liquidate from the fund and
21 you get your proceeds.

22 And they charge obviously a spread for that. So it's a
23 great business for them. They're essentially renting their
24 balance sheet. As a matter of fact, that's what they used to
25 call it is renting their balance sheet. You could do it in a

1 swap, you could do it in a note, you could do it in other
2 ways.

3 There were also -- we -- we focused earlier on just U.S.
4 taxpayers, but there were -- German investors had issues. UBS
5 did a pretty good business with Germany because German
6 investors had a system colloquially called Black, Gray, and
7 White.

8 So they had black investments, gray investments, white
9 investments. White were taxed in Germany, the most friendly.
10 Black, the least friendly. And, again, the derivative
11 exposure to UBS would mean it was taxed as a note, which
12 typically would be white or gray instead of black if it was a
13 hedge fund, but you got hedge fund exposure.

14 There were -- insurance companies had regulatory tier
15 capitals, it would be the same thing, because UBS or Credit
16 Suisse -- I don't think Credit Suisse was AAA; they probably
17 AA-plus or something. UBS was AAA. So you had a AAA note,
18 albeit it was linked to the performance of a less than AAA
19 asset.

20 So there were lots of ways these products were sold to
21 give derivative exposure to assets. And it didn't have to
22 be -- I've always focused, and Mr. Powers and I focused, on
23 hedge funds, but it literally could be you wanted exposure to
24 oil or a real estate asset, or anything. You could get that
25 exposure derivatively from these banks.

1 Q. And this may be an obvious question with an obvious
2 answer, but where is Credit Suisse located?

3 A. Switzerland.

4 Q. And UBS?

5 A. Switzerland. I mean, that's their home is Switzerland.

6 Q. How would you describe Mr. Magness' investment
7 philosophy?

8 A. You know, I think Gary -- I don't know if he'd agree with
9 this, but I think Gary took a lot of his investment acumen
10 from his dad. And, you know, his dad started TCI -- he was a
11 rancher. Right? And he started TCI because he wanted cable
12 at his ranch. And Gary has sort of that kind of pioneering
13 spirit in him.

14 And I thought it was funny to hear him call me his paid
15 pessimist, but he's an optimist. Right? He's a -- he's a
16 believer. He saw what his dad literally could do with his
17 bare hands and the kind of business that could be built.

18 And he -- he appreciated -- you know, there's a word that
19 gets bandied around unfortunately, I think, incorrectly, which
20 is risk.

21 And risk -- everybody thinks risk is a bad thing. Risk
22 can be a good thing. I mean, risk can go either way. There
23 can be a risk that an investment goes up faster than you
24 thought it could or -- or more steeply or for reasons -- or
25 the market compresses, whatever. Risk kind of goes --

1 Gary has kind of -- not a studied but kind of an innate
2 appreciation of risk. And when I would say things like, you
3 know, most people in America get rich by concentration, by
4 owning a business or a single, but you stay rich by
5 diversification, he understood that, but he believed in the
6 Liberty companies. He believed in what his dad had built. He
7 believed in what John Malone was doing with it. And he was
8 really willing to ride that.

9 And, again, as Mr. Powers alluded to, I'm sure some of it
10 was emotional, but some of it is he just had that firm belief
11 in it. So he would be reluctant sometimes to take advice that
12 I was giving him or suggestions and diversify more than maybe
13 I would have done, but he was content with it. He could sleep
14 at night. And I think that's the important part.

15 If you're -- if you're running your portfolio, no matter
16 how wealthy you are and you can't sleep at night, then it's
17 not very worthwhile, and he could sleep at night, so --

18 Q. How would you describe Mr. Magness' tolerance for risk?

19 A. He -- at least in the discussions we had, he appreciated
20 the risk that I would identify. And to me, there's sort of
21 the known risk, then there's the unknown risk, the known
22 unknown risk, and then there's the unknown unknown risk.

23 And the only one that actually bothers me is the last
24 one, because if it's a known risk, it's a known risk, and you
25 can do something about it, or choose not to. And if it's an

1 unknown known risk, it's you still know about it, it's just an
2 unknown known risk, like wars and pestilence and all that
3 stuff.

4 The unknown unknown, with the stuff you just can't know
5 to know, that's kind of scary.

6 So he understood that. But he would tolerate -- first
7 off, he's a very wealthy gentleman, so he could tolerate a
8 risk level that most of us -- I mean, you know, Mr. Powers
9 said, you know, would it surprise you to know he had a hundred
10 million dollars? Well, I mean, if you talk to the average
11 person, a hundred million dollars, none of us expects to have
12 a hundred million dollars. But that's just a percentage of
13 his net worth.

14 So he could correctly corral in his mind that if he was
15 risking some percentage of his net worth for a realistic
16 upside, he could take that risk and, like I said, he could
17 sleep with it. Even though in absolute dollar amounts, it
18 would seem staggering.

19 I mean, I remember negotiating these bank things and
20 we're talking 3-, \$400 million of debt, which honestly it's
21 kind of frightening to me, and I deal in this stuff all the
22 time.

23 But he understood what that was as a percentage of his
24 net worth. He understood kind of what he would have to do in
25 worst case. And he could get content that the leverage --

1 that he would use the leverage effectively. You know, whether
2 he really was or wasn't, that's -- you only know that with
3 20/20 hindsight.

4 Q. Let me ask you this. You worked at Quellos helping Mr.
5 Magness from around 2003 or 2005 to 2007. Right?

6 A. Uh-huh.

7 Q. Through March 2007. In that time is it fair to say Mr.
8 Magness had at least a couple of hundred million dollars of
9 margin debt throughout the entire time period?

10 A. I mean, there could have been a time it was lower, but
11 I'd say that's pretty fair.

12 Q. Okay. In that entire time period, did Mr. Magness -- and
13 I take it you encouraged him throughout the time period to
14 retire that debt or at least kind of keep it --

15 A. Yeah, not --

16 Q. -- under control.

17 A. I didn't care if he took it to zero, but yeah.

18 Q. And did you ever encourage him to use any money that he
19 had at Stanford to retire margin debt?

20 A. Well, I don't think so, because I didn't know how much
21 money he had at Stanford.

22 Q. So just so I understand, in that situation you just
23 described, you were able to work with the bank to elongate the
24 repayment period or the cure period.

25 A. Yeah. My memory is we stroked down some amount, I don't

1 remember what it was, 20 million, 15 million, I don't
2 remember, and investigated some of the ideas that they wanted
3 to implement.

4 So I said, okay, well, send me your stuff, I'll meet with
5 the guys. We did all that stuff. But a lot of it was done
6 with an eye towards I've got a feeling the stock is going to
7 rebound pretty significantly pretty quickly. Because it was
8 just -- you know, there wasn't any reason that a stock like
9 Liberty should get clobbered in the tech bubble burst, it's
10 not a tech stock, and it did.

11 And as soon as it rebounded, and it probably -- I'd have
12 to go back and look at a calendar, 120, 150 days or something,
13 and all of sudden Deutsche was like, oh, you know what, we
14 don't have a margin issue anymore. You've paid down enough
15 and the stock's back up and the collateral looks fine.

16 Gary had a pretty bad taste in his mouth from the way he
17 was treated by them, and ultimately we had found a new home
18 for the loan subsequently. But yeah.

19 Q. Would you have found that same to be true in the downturn
20 of 2008, that a bank would be willing to negotiate once you
21 were under a margin call?

22 A. You know, it probably depends on your relationship, how
23 -- I mean, a big part of it is how deep are you. Right?

24 You know, Gary, in the Deutsche Bank thing, we were in
25 it, but we weren't buried in it, you know. Because if a 20

1 percent bounce isn't going to get you out, you know, I don't
2 know that that strategy makes a lot of sense.

3 But if a 10 or 15 percent bounce may get you out, or a
4 five to seven will get you out, then probably the bank may
5 play. But if it's 20, 30, 40, they're not going to say, well,
6 what's the chance the stock in the next 90 days is going up 25
7 percent.

8 MR. PETRIE: That's the end of the clip, Your Honor.
9 I'm turning over the helm to Mr. Bryant.

10 MR. BRYANT: Your Honor, Magness parties will call
11 as their next witness Ryan Bell.

12 THE COURT: If you could step up here, please, sir,
13 and have a seat.

14 THE WITNESS: Okay. Could you raise your right
15 hand, please?

16 RYAN BELL,

17 DIRECT EXAMINATION

18 By Mr. Bryant:

19 Q. Please state your name.

20 A. Andrew Ryan Bell.

21 Q. And what's your current business address?

22 A. Let's see. 300 Crescent Court, Suite 1300, Dallas,
23 Texas.

24 THE COURT: Sir, if you could get a little closer to
25 the microphone, that will help us hear you. Thank you.

1 Q. (BY MR. BRYANT) Mr. Bell, who do you currently work for?

2 A. Merrill Lynch.

3 Q. And what's your current position or title with Merrill
4 Lynch.

5 A. I am a financial advisor.

6 Q. And could you describe for the jury generally what you do
7 in that position as a financial advisor at Merrill Lynch?

8 A. I help families, wealthy families, manage their money,
9 manage their assets; so work with about 50, 60 clients, all
10 individual families.

11 Q. Okay. And is one of your clients Gary Magness and/or his
12 related entities and trusts?

13 A. It is.

14 Q. Do you hold any professional licenses?

15 A. Yes. I have a series --

16 Q. What are those?

17 A. Series 7, Series 63, 65, and a Series 3.

18 Q. And generally could you describe for the jury what those
19 licenses authorize you to do?

20 A. Sell stocks, bonds, commodities, currencies to clients.

21 Q. Could you describe your education past high school?

22 A. I went to undergraduate at Southern Methodist University,
23 and that's it--graduated.

24 Q. All right. After you finished your college education,
25 what was your first full time job?

1 A. Let's see. Suntrust Bank for a brief period, in Atlanta.

2 Q. What did you do next after that?

3 A. I worked with Goldman Sachs for six years.

4 Q. Generally what did you do at Goldman Sachs?

5 A. Same thing I do with Merrill Lynch, which is advise
6 wealthy families.

7 Q. And what job did you take next after your five years or
8 so at Goldman Sachs?

9 A. It was the same job but just at Merrill Lynch.

10 Q. Okay.

11 A. Same general business, covering families.

12 Q. So how long have you been with Merrill Lynch at this
13 point?

14 A. Let's see. I think we're going on -- It will be 14 years
15 in March.

16 Q. Okay. Have you always been based in Dallas during your
17 time at Merrill Lynch?

18 A. I have.

19 Q. Okay. And could you describe what Magness entities or
20 trusts are currently clients of yours at Merrill Lynch?

21 A. Let's see. GMAG; GMIT, which is an irrevocable trust;
22 Gary Magness personally; several children's accounts; Magness
23 Securities; Magness Foundation; Mango Trading; Mango Trading
24 2; Magness group 401(k). That's pretty much all of them. I
25 mean, there's a number of different trusts for the children,

1 and UTMA or minors' accounts.

2 Q. Okay. How long have you personally known Gary Magness?

3 A. Let's see. Probably -- I think the relationship began
4 maybe in 2002, I believe, so my math is sometimes bad, but,
5 you know, roughly 14 years --

6 Q. Okay. And --

7 A. -- give or take.

8 Q. Could I ask you to get closer to the microphone or speak
9 up a bit?

10 A. Sorry.

11 Q. Because I can hear you, but I'm not sure the jury can.

12 A. Yeah.

13 Q. When did you first provide investment services to Gary
14 Magness or his related entities?

15 A. I believe it was in 2002.

16 Q. Now, and you've continually provided services to
17 Mr. Magness and his entities up until today?

18 A. Yes, sir.

19 Q. Okay. And, generally, are you compensated at Merrill
20 Lynch based on the amount of investment business you bring in
21 and keep at the firm?

22 A. Yes.

23 Q. So is it fair to say the more Mr. Magness' business you
24 bring in and keep the better your compensation tends to
25 become?

1 A. I'd say that's fair.

2 Q. Okay. Now, over the period that you have done business
3 with Mr. Magness at Merrill Lynch, has Mr. Magness and his
4 related entities' business with you, in general, grown?

5 A. I would say as far as assets that we currently hold at
6 Merrill Lynch, yes.

7 Q. So just in rough terms, about how much money did
8 Mr. Magness and his entities invest through you at Merrill
9 Lynch at the beginning of the relationship in 2003, let's say?

10 A. You know, we left firms. We went from Goldman to
11 Merrill, and we brought some of the accounts with us, so it
12 would be hard to say what the exact amount was.

13 Q. Yeah. Do you have just a rough ballpark? Is it closer
14 to a million than ten million or a hundred million?

15 A. I think it would be closer -- somewhere between ten and a
16 hundred million.

17 Q. Okay. And roughly -- moving forward to 2008, roughly
18 about how much in assets did Mr. Magness and his entities have
19 invested with you at Merrill Lynch?

20 A. I would say it's closer to well over a hundred, maybe
21 300. I'm not positive on a figure.

22 Q. When you say a hundred or 300, do you mean 100 million or
23 300 million?

24 A. Yes, 100 to 300 million.

25 Q. Is it fair to say that in 2008 that Mr. Magness was a

1 very important client for you?

2 A. Yes.

3 Q. Now, as of 2008, were you aware that Mr. Magness had only
4 a portion of his assets invested with you at Merrill Lynch?

5 A. Yes.

6 Q. And did you know in 2008 that he also had a substantial
7 amount of assets at HSBC?

8 A. I did.

9 Q. Did you also know in 2008 that he had a substantial
10 amount of his assets at U.S. Bank?

11 A. I did.

12 Q. And did you know in 2008 that he had a significant amount
13 of his assets at a brokerage firm called Stanford Group
14 Company?

15 A. I was aware, yes.

16 Q. Okay. And did you also know in 2008 that Mr. Magness or
17 his related entities had around a hundred million dollars in
18 CDs from Stanford International Bank?

19 A. I didn't know the exact figure, but I knew it was a
20 substantial figure close to that.

21 Q. Okay. Now, were these other institutions that I just
22 mentioned, HSBC, U.S. Bank, and Stanford, in some way
23 competitors of yours with respect to Mr. Magness' assets?

24 A. Yes, sir.

25 Q. And so specifically Stanford International Bank was a

1 competitor of yours with respect to Mr. Magness' assets in
2 2008?

3 A. Yes.

4 Q. If you'd been able to persuade Mr. Magness to move some
5 of his assets from Stanford to Merrill Lynch, would that have
6 been of financial benefit to you?

7 A. It would.

8 Q. As a result of those competitive factors, did you always
9 tend to be skeptical and critical of Mr. Magness' investments
10 at your competitors?

11 MR. POWERS: Your Honor, I object to the leading.

12 THE COURT: Overruled.

13 THE WITNESS: I'd say that's a fair statement. I
14 mean, I don't --

15 Q. (BY MR. BRYANT) And was -- did there come a time when
16 you were specifically skeptical and critical of the investment
17 products offered by Stanford International Bank?

18 A. At some point, yes.

19 Q. Okay. Now, do you recall the financial crisis that the
20 United States went through and faced generally in September
21 and October of 2008?

22 A. I do.

23 Q. Do you recall that during that specific time period many
24 of the leading financial institutions in America were
25 financially stressed?

1 A. Very much so.

2 Q. Do you recall that Lehman's, one of the largest
3 investment banks in the country, went bankrupt in September
4 of 2008?

5 A. I do.

6 Q. Do you recall that AIG, the largest insurance company in
7 the world, was taken over by the U.S. government to avoid
8 failure in September 2008?

9 A. I do.

10 Q. Do you recall that even Merrill Lynch was financially
11 stressed during that same period and was acquired by Bank of
12 America?

13 A. Very much so.

14 Q. And did that acquisition of Merrill Lynch by Bank of
15 America affect you personally?

16 A. It did.

17 Q. Do you recall also that Washington Mutual, or WaMu,
18 failed and was acquired by another bank in September or
19 October of 2008?

20 A. I do recall.

21 Q. Do you recall that another major bank, Wachovia, was
22 financially troubled and was acquired by another major bank
23 in September or October 2008?

24 A. I do.

25 Q. Now, to the best of your knowledge, were any of those

1 financial institutions, that failed or had to be acquired in
2 September or October of 2008, ponzi schemes or frauds?

3 A. Not to my knowledge.

4 Q. To the best of your knowledge, were a very significant
5 percentage of the financial institutions and banks in America
6 experiencing some financial stress in October of 2008?

7 A. Yes.

8 Q. So if you heard that a bank was showing some signs of
9 financial stress in October of 2008, would you immediately
10 conclude that it must be a Ponzi scheme or fraud?

11 A. No.

12 Q. Why not?

13 A. Banks use a lot of leverage, and they were overlevered at
14 the time, so I just knew that, you know, banks were failing,
15 not because necessarily a fraud; it was just because they had
16 too much debt and not enough capital.

17 Q. Now, you described that you did business with Mr. Magness
18 beginning in 2002 roughly, and certainly through 2008 and
19 beyond.

20 Do you recall that during a significant period of time
21 Mr. Magness had those CDs at Stanford International Bank?

22 A. I don't remember the dates, but yes, I knew he had CDs.

23 Q. Now, during all of those years all the way up through the
24 end of 2008, did Gary Magness ever express to you any concern
25 about Stanford being a possible Ponzi scheme or fraud?

1 A. No, he did not.

2 Q. During all of those years, all the way through the end of
3 2008, did you ever hear even from other people associated with
4 Mr. Magness that Gary Magness was concerned about Stanford
5 being a Ponzi scheme or fraud?

6 A. No.

7 Q. Did Gary Magness ever indicate to you or state to you or
8 in your presence that he had gotten any preferential
9 information about Stanford or Stanford International Bank or
10 those CDs that was not available to most other CD investors?

11 A. Not that I'm aware of.

12 Q. And did you ever see anything or hear anything that
13 indicated that he had any kind of special preferential
14 information about Stanford or the Stanford CDs that was not
15 available to other CD investors?

16 A. Not to my knowledge.

17 Q. Okay. Let's focus in on October 2008. Could you
18 generally describe the assets that Gary Magness and his
19 entities had at Merrill Lynch the beginning of October 2008?
20 And I'll show you some statements in a minute and get more
21 specific.

22 A. It was primarily just stockholdings. Most of those are
23 media stockholdings, very low basis stock that I think had
24 been in the family for a while. And he also had margin debt
25 also. He had a loan against those stocks. So those stocks

1 were his collateral and he borrowed money against it.

2 Q. Okay. I'd like, if we could, to show you what's been
3 admitted as Defendant's Exhibit 1.

4 MR. BRYANT: If we can get that up.

5 Q. (BY MR. BRYANT) Can you see that okay on your monitor,
6 Mr. Bell?

7 A. I can, yes, sir.

8 Q. Okay. Can you describe what this chart depicts?

9 A. I can't see the exact years, but it looks like 2008
10 starting in maybe April, and it's a stock price. The chart
11 is -- the dollar prices are on the far right. And it just
12 shows the performance, what happened. Kind of at the end of
13 September it looks like it fell off a cliff down to the, I
14 don't know, \$2 range, maybe.

15 Q. And what stock did this chart pertain to?

16 A. This is Liberty Media Interactive, LINTA.

17 Q. Is that one of the stocks that Merrill Lynch or that
18 Mr. Magness or his entities had at Merrill Lynch during that
19 2008 period?

20 A. Yes, sir.

21 Q. Now, in general, when that stock price fell off the cliff
22 for Liberty Media Interactive around October 2008, did it also
23 suffer severe -- did the other media stocks that he held at
24 that time at Merrill Lynch also suffer major declines?

25 A. Yes, sir.

1 Q. And I think you mentioned that he had margin debt at
2 Merrill Lynch at the time. Is that right?

3 A. Correct.

4 Q. And what effect did the dramatic drop in those stocks
5 have on his situation with his margin debt at Merrill Lynch in
6 October 2008?

7 A. Well, the way margin works is you use the collateral as
8 the stock so you can borrow up to a certain percentage versus
9 the stock price. And as the stock price goes down, your
10 borrowings look like you have a lot more borrowed against that
11 collateral, so the collateral becomes worth less and less, and
12 so at some point you'll get a margin call, which means you
13 need to either pay it down with cash or sell the stock to get
14 it back in line.

15 Q. Did Gary Magness and his entities face margin calls at
16 Merrill Lynch in October 2008?

17 A. I believe so. I mean, I know he did have margin calls at
18 Merrill Lynch. I think it was October. I mean, I'm assuming.

19 Q. Okay.

20 A. It may have started in September, but he definitely
21 received margin calls.

22 Q. Now, did Gary Magness and his entities also face margin
23 calls at other institutions during that same September and
24 October 2008 time frame?

25 A. Yes, sir.

1 Q. And had Mr. Magness and his entities not been able to
2 come up with significant amounts of cash very quickly to meet
3 those margin calls, what would have been the result, at least
4 with respect to his assets at Merrill Lynch?

5 A. He'd have to sell stock to pay Merrill Lynch back. So he
6 borrowed money, so effectively they would have to sell stock,
7 either he would or, if he chooses not to, then the bank takes
8 matters into their own hand and sells stock, or whatever the
9 collateral is used against it.

10 Q. Did you personally have a role in helping Gary Magness
11 and the Magness entities deal with the financial situation
12 that they faced in October of 2008?

13 A. I did.

14 Q. Could you describe generally what that role was?

15 A. Well, I knew that, you know, we were having margin calls,
16 but specifically they were having margin calls at U.S. Bank
17 and I believe HSBC. And at the time Merrill Lynch had more
18 favorable terms for Mr. Magness, so based on the stock price
19 he would get a better loan against his stock at Merrill Lynch
20 versus HSBC, and I believe versus U.S. Bank.

21 So I remember being on the phone with U.S. Bank, you
22 know, assuring them that if they transferred it we would pay
23 them the cash. And we kind of had to meet in the middle of
24 the night kind of deal, like here's the cash and here's the
25 stock, because they wanted to be made whole on their loan. So

1 there was a lot of coordination involved in that. So.

2 Q. In general, did some assets and/or debt move from other
3 firms to Merrill Lynch during October 2008?

4 A. Yes, sir.

5 Q. Could you describe, as best you recall, what occurred in
6 that regard?

7 A. Well, like I said, I think our terms were a little more
8 favorable than the other firms, and, you know, rather than
9 selling assets to pay down the margin calls, it's better to
10 not have to sell if you think it's going to rebound quickly.
11 So that was, I think, my understanding of what they wanted to
12 do was not sell unless they were forced to.

13 Q. They being whom?

14 A. The Magness Group.

15 Q. Okay.

16 A. And so with respect to U.S. Bank, maybe not as big of a
17 coordinated Wall Street-type firm, so it was a little bit more
18 cumbersome to coordinate with them to transfer assets.
19 Because transferring of assets between two banks on Wall
20 Street is fairly easy. It's very seamless. And U.S. Bank was
21 maybe not well-equipped in that, so it was a little more
22 cumbersome.

23 But that's what we were doing is just trying to give him
24 better terms so that he didn't have as many margin calls as
25 maybe U.S. Bank or HSBC would do at the time.

1 Q. Let's take a look at Exhibit PX 341. Mr. Bell, you see
2 the first page of PX 341. We may look at some other pages as
3 well. Could you generally describe what that document is?

4 A. This is a monthly statement.

5 Q. And is it specifically a Merrill Lynch monthly statement
6 that you -- in the form that you typically send to your
7 clients?

8 A. Yes, sir.

9 Q. And what particular client does this statement pertain
10 to?

11 A. This is the irrevocable trust, or GMIT.

12 Q. Sometimes -- Have you ever referred to it as G-M-I-T?

13 A. Yes, sir.

14 Q. And from what period of time does this statement -- what
15 period of time does it cover?

16 A. This is the month of September in 2008.

17 Q. Okay.

18 A. Or August 30th to September 30th.

19 Q. There's a reference on the left side of the page to the
20 Russell Group. What is that?

21 A. Oh, sorry. No, It's Russ/Bell. It's --

22 Q. Oh, Russ/Bell. Excuse me.

23 A. It's -- my partner's a guy named Mike Russ, and I'm Ryan
24 Bell, so they make us put a group name, so it's pretty
25 clever--Russ/Bell.

1 Q. Okay. Based on the information on that first page of
2 exhibit -- Plaintiff's Exhibit 341, could you describe
3 generally what happened to the Gary Magness Irrevocable Trust
4 account at Merrill Lynch during September 2008?

5 A. Well, the overall net portfolio value goes down quite a
6 bit. Let's see. Yes. I was just -- yeah. The market went
7 down or his marketable investments went down \$11,576,000.

8 Q. Just in September of 2008.

9 A. Correct.

10 MR. BRYANT: Okay. Could we look at the second page
11 of that exhibit?

12 Q. (BY MR. BRYANT) Now, this second page indicates the top
13 five portfolio holdings in that account for that month. What
14 were they?

15 A. Liberty Media, Liberty Media Corp Entertainment, Liberty
16 Global Series A, Liberty Global Series C, Comcast Class A.
17 Those are just, like you said, five stocks.

18 Q. And just those five stocks, their current value, at least
19 at some point in that month, was roughly about what?

20 A. Well, it looks like it's -- let's see. It was about 86
21 percent of the portfolio value, so I don't know. What would
22 that be? Like close to 40 something million, 50 million.

23 Excuse me. Just the values. I'm sorry. Yeah. So 50,
24 60, I don't know, 75 million, 77 million, something like that.

25 Q. Now, let's look at Exhibit PX 342. Could you describe

1 for the jury what Plaintiff's Exhibit 342 is?

2 A. This is a margin call.

3 Q. And who did the margin call go to?

4 A. This one's going to Gary Magness.

5 Q. And who sent that?

6 A. Merrill Lynch.

7 Q. Now, the date on the right is October 13th, 2008.

8 MR. BRYANT: Can we look at the rest of that page?

9 Q. (BY MR. BRYANT) It looks like there's an origin date
10 listed of October 10th, 2008.

11 A. Yes.

12 Q. What does the origin date refer to?

13 A. I think that's -- refers to the day that he technically
14 goes into a margin call where he's -- needs to post more
15 collateral.

16 Q. And there's a reference to an account number ending in
17 0396, account type CMA for trust. Can you tell what account
18 specifically that margin call referred to?

19 A. That's the irrevocable trust, the GMIT.

20 Q. So is that the same account for which we just saw the
21 September statement?

22 A. Yes, sir, I believe so.

23 Q. Does this tell you that between the end of September
24 shown in that statement and October 10th that that account had
25 reached the point where Merrill Lynch had to do a margin call?

1 A. Yes, sir.

2 Q. And what amount of money was Merrill Lynch demanding or
3 requiring at that point to deal with the margin call?

4 A. Well, in this case, if he posted cash it would be
5 \$6,043,321, but if he satisfied it by selling stock it would
6 be closer to \$18 million that he would have to sell.

7 Q. Explain why that is so.

8 A. Because you only get a certain release on -- if your
9 stock is being used as the collateral for the loan and the
10 value goes down, in order to get back to where it's 50
11 percent, it's a technical situation, but ultimately you'd have
12 to sell three -- A little more than three times the stock or
13 of your stocks to pay down 6 million. That's to get the
14 account in line.

15 Q. So one of the options that Mr. Magness would have had to
16 have to meet that call was to sell some of his Liberty stocks,
17 but he would have had to sell \$18 million worth at that point
18 where it was declining dramatically?

19 A. Roughly.

20 Q. And if he could come up with about \$6 million cash, he
21 could also alternatively deal with the margin call just by
22 putting roughly one third of the amount in cash?

23 A. Correct. Or he could post another asset that had value,
24 so in that case it would be like \$12 million of a stock. So
25 if he had \$12 million of stock at another firm, he could bring

1 that over and that would satisfy it.

2 Q. Do you recall whether you were personally involved in
3 dealing with the Magness folks in connection with this margin
4 call?

5 A. Yes.

6 Q. Okay. Let's take a look at Exhibit PX 378.

7 Now, this is actually a two-page email, but there's
8 almost nothing on the second page, so let's look at the first
9 page. And take a second if you need to to read that.

10 A. Okay.

11 Q. What was the date of this email?

12 A. That's October 10th.

13 Q. And what amount of money was Mr. Magness or his entities
14 dealing with in terms of a margin call that's discussed in
15 this email?

16 A. So that would be from the night prior, so this is before
17 the market opened, so he had a current call of \$781,000 in
18 10396.

19 Q. That's quite a bit different than the \$6 million amount
20 that we saw I believe with the same origin date of October
21 10th, 2008 in the previous exhibit.

22 A. Right.

23 Q. Do you have any -- can you explain why there's that
24 difference between about \$781,000 and over \$6 million on the
25 same day?

1 A. That's how bad the market was declining. So a call from
2 781 went to 6 million by the end of the day.

3 Q. Let's look at what's been marked as Exhibit PX 344. Can
4 you describe what Exhibit PX 344 is?

5 A. This is a margin call for the same account ending in 396,
6 and it's a call of \$77,067. October 24th was the date. Due
7 on October 28th, but I just remember in that time they were
8 due upon the call. I think the -- I think in that email it
9 stated these were not normal times and so they wanted the
10 calls met immediately, as opposed to typically you'd give
11 clients a few days to come up with collateral or sell stock.
12 But it was not normal times, so they were demanding that you
13 satisfy your margin call that day, or at least tell them what
14 your plan is to satisfy that call.

15 Q. I'm not going to take you through, you know, all of the
16 detail of what occurred during October of 2008 with respect to
17 these margin calls, but, in general, what's your recollection
18 as to how Mr. Magness and his entities survived that month in
19 terms of their -- the margin calls at Merrill Lynch?

20 A. I think, you know, some assets were clearly sold. I
21 think the assets that were sold maybe weren't his core assets.
22 He didn't want to sell -- this is what we discussed several
23 times was he didn't really want to sell something to meet a
24 margin call and then owe tax on it the next year, because that
25 was kind of, you know, not a great idea. But certainly he had

1 to sell lots of stocks to pay down the debt.

2 Q. When you refer to Mr. Magness' core assets in your
3 answer, what are you referring to?

4 A. Just those stocks that we saw; mostly Liberty Media type
5 of entities that all stem from one old investment in TCI. I
6 mean, Comcast was probably maybe not as core, the way I
7 understood it. I'm maybe misspeaking, but the way I thought
8 of his core assets were anything Liberty, et al., which was
9 all of his -- all of these Liberty entities, all of these
10 Liberty stocks.

11 Q. Were all of those Liberty stocks ones that had been owned
12 by Mr. Magness' father?

13 A. Yes.

14 Q. Or the original companies that turned into the Liberty
15 stocks?

16 A. Correct.

17 Q. Okay. Now let's look at Exhibit PX 346.

18 Could you describe what, again, just from the first page,
19 what PX 346 is?

20 A. This is an account statement for the month of October.

21 Q. And which account does that pertain to?

22 A. It looked like it was the same thing--the GMIT or
23 irrevocable trust.

24 Q. And is this the one that has the number ending in 0396?

25 A. Yes, sir.

1 Q. Okay. So this is the same account for which we saw the
2 September statement, but now this is the October statement?

3 A. Yes.

4 Q. And based on that first page, can you describe the
5 changes that occurred in that account during the month of
6 October 2008?

7 A. We received a number of assets from another firm, or
8 maybe multiple firms, that net contributions shows that
9 \$49,801,000 was moved into the account. But the market went
10 down 43 million.

11 Q. So when you say the market went down 43 million, are you
12 referring to the values of those same stocks that we looked at
13 earlier, the Liberty stocks and Comcast and other ones that
14 you had in that account in September?

15 A. Plus the assets that came in. So the overall portfolio
16 went down 43 million, but he started the month with 37
17 million, and then added 49 million, and the market was down 43
18 million, so he ended up with only 44 million even though he
19 brought in 49.8 million.

20 Q. Almost \$50 million right there?

21 A. Correct.

22 Q. Okay. Let's look at the second page of Exhibit 346.

23 It looks like, you know, roughly some of the same stocks
24 are indicated there as his portfolio holdings?

25 A. Yes, sir.

1 Q. The top five?

2 A. Uh-huh.

3 Q. And roughly what was the value of those at the end of
4 October 2008?

5 A. Let's see. 66, 68, somewhere in there.

6 Q. Do you recall whether there were other Magness accounts
7 at Merrill Lynch where you had margin calls in October 2008?

8 A. Yes, sir.

9 Q. Let's look at Exhibit PX 374.

10 This is exhibits of like a five-page email string. Just
11 let's look at the first page right now.

12 Can you describe what margin call -- what Merrill Lynch
13 margin call that email pertained to.

14 A. This is for GMAG ending in 7010. And the margin call was
15 \$1.714 million.

16 Q. This looks like another email at 7:00 in the morning.
17 What date was that?

18 A. October 21st, 2008.

19 Q. And was this -- do you happen to recall how Mr. Magness
20 and his group dealt with that margin call?

21 A. I don't recall. I think this one we may have -- this one
22 was U.S. Bank was going to be transferring over some assets.

23 Q. Now, do you -- did you become aware during October 2008
24 that Mr. Magness or his entities had received loans from
25 Stanford International Bank secured by its CDs there?

1 A. I don't know the timing on when I knew, but I knew that
2 they had received a loan.

3 Q. And were part of the loan proceeds from those loans at
4 Stanford International Bank on the CDs actually deposited in
5 one or more Merrill Lynch accounts during that month?

6 A. Yes.

7 Q. What do you recall about how that came about?

8 A. I don't remember, again, the timing. If you say it was
9 October. But I did have a conversation with his CFO at the
10 time, or his chief investment officer, because at the time we
11 were not in any kind of margin calls or -- we were in a couple
12 of margin calls, but it was limited amount. And I think they
13 had substantial cash coming over. And one of the ideas was to
14 put it into a -- into one of the accounts to just hold it in
15 cash and not to pay down margin debt with it. That's about
16 all I can remember from the Stanford funds.

17 Q. Do you recall about how much that deposit was that went
18 into the Merrill Lynch accounts during that period?

19 A. I don't remember the total amounts, but it was, you know,
20 north of 10 million for sure.

21 Q. Okay. And do you recall what that money was actually
22 used for at some point by the Magness folks?

23 A. I don't remember what -- initially we put it into just a
24 money market fund and didn't pay down margin because we
25 weren't in a call, and it was kind of earmarked for using it

1 to pay down margin calls either with Merrill or at HSBC.

2 Q. And was it ultimately used for that purpose?

3 A. I'm assuming so, yes.

4 Q. Okay. Now, during all of the dealings and interactions
5 that you had with the Magness parties during the course of
6 this crisis in September and October of 2008, did Gary
7 Magness, or anyone else, express to you the belief that
8 Stanford or Stanford International Bank was a Ponzi scheme?

9 A. No.

10 Q. Do you have any reason to believe, either from what
11 anything you've ever heard or seen from the Magness folks, any
12 reason to believe even today that at the time of the loans in
13 October 2008 Gary Magness knew or believed that Stanford was a
14 Ponzi scheme or fraud?

15 MR. POWERS: Objection, Your Honor; testifying to
16 somebody else's beliefs.

17 THE COURT: Overruled.

18 THE WITNESS: I don't believe.

19 Q. (BY MR. BRYANT) Now, we talked about the fact that you
20 tend to be skeptical or critical of your clients' investments
21 at your competitors. Did you ever express any skepticism or
22 criticism of the Stanford International Bank CDs to Gary
23 Magness?

24 A. Not to Gary directly.

25 Q. Okay. And did you ever -- well, to whom did you express

1 any skepticism or criticism of the Stanford or the Stanford
2 CDs?

3 A. I would say Tonya Dokken, who was his investment officer
4 at the time.

5 Q. And can you pinpoint exactly when you may have expressed
6 skepticism or criticism of the Stanford international CDs to
7 Tonya Dokken?

8 A. I don't recall the exact timing. I believe it was -- I
9 couldn't say --

10 Q. Okay.

11 A. -- to be honest.

12 Q. Do you know for sure whether it was before or after
13 October of 2008?

14 A. My guess is it --

15 Q. I would not ask you to guess. If you have an estimate --

16 A. No, I don't know.

17 Q. Okay. Regardless of when you expressed skepticism or
18 criticism of the Stanford International Bank CDs, or Stanford
19 in general, to Tonya Dokken, do you have any knowledge that
20 Tonya Dokken ever relayed that criticism to Gary Magness?

21 A. No.

22 Q. Did you ever express any skepticism or criticism of
23 Stanford or the Stanford International Bank CDs to Tom Espy?

24 A. Not to my knowledge.

25 Q. Was Tom Espy somebody you dealt with in connection with

1 the Magness accounts at times?

2 A. Yes, sir.

3 Q. Did you ever express any skepticism or criticism of
4 Stanford or the Stanford International Bank CDs to Steve
5 Knudson?

6 A. Not to my knowledge.

7 Q. Now, do you recall that there came a time in mid December
8 2008 when there were an arrest and revelations pertaining to a
9 Bernie Madoff?

10 A. I remember, yes.

11 Q. And was that after the time of the loans that the Magness
12 entities had gotten from Stanford?

13 A. Yes.

14 Q. About how many months?

15 A. I think October was roughly the time that they got it,
16 maybe before, so two or three months.

17 Q. Now, as a result of the Madoff Ponzi scheme becoming
18 public in mid December 2008, did you observe additional
19 concern in the investment community about possible investment
20 frauds and Ponzi schemes?

21 A. Oh, yes.

22 Q. Could you describe what happened at that time in terms of
23 everybody's consciousness of Ponzi schemes being changed?

24 A. Yes. I think -- so Bernie Madoff was, you know, quote
25 unquote, well-respected, well-regarded, and to find out that

1 he had a Ponzi scheme, a lot of people thought his returns
2 were too good to be true, and in the crisis it appeared that
3 that was correct; it was too good to be true.

4 And so I think after that revelation, people started to
5 really scratch the surface on any investment that maybe went
6 through that tough difficult period without any kind of
7 hiccup. So I think there was a lot of skepticism with any
8 kind of investment that was opaque, or that wasn't black and
9 white; it was, you know, investing in lots of different
10 entities or different investments, et cetera. So any hedge
11 fund or kind of more sophisticated investment, people were
12 skeptical of it.

13 Q. Let me show you a document dated February 13th, 2009.
14 It's Exhibit DX 209, I believe.

15 THE COURT: How long, Mr. Bryant, are you going to
16 be talking about that one?

17 MR. BRYANT: I'm guessing five or ten minutes.

18 THE COURT: Why don't we save that for after lunch.

19 MR. BRYANT: It might be a good time to break.

20 THE COURT: Let's do that. We'll take our lunch
21 break now and see you all back at 1:30. 1:30.

22 (Whereupon, the jury left the courtroom.)

23 THE COURT: Do you all know offhand how much of Wilk
24 gets charged to the Receiver? If you don't know it right now,
25 you can let me know at the end of the lunch break.

1 MR. SADLER: We will report back, Your Honor.

2 THE COURT: Okay. That will be great.

3 Anything else we need to take up?

4 MR. SADLER: No, sir.

5 THE COURT: All right. See you-all at 1:30.

6 (Lunch recess.)

7 THE COURT: All set?

8 MR. SADLER: Yes, sir.

9 Did you want the Wilk times now or later?

10 THE COURT: Now's good.

11 MR. SADLER: One hour 16 minutes for the Defendant;

12 23 minutes for the Plaintiff.

13 THE COURT: Okay. Thank you.

14 MR. PETRIE: We also, Your Honor, have three volumes
15 of deposition testimony that we'd ask for your attention.

16 THE COURT: Okay. Sure.

17 MR. PETRIE: If I may?

18 THE COURT: Are we otherwise ready?

19 MR. SADLER: Yes, sir.

20 THE COURT: And do we have our witness?

21 MR. SADLER: Yes.

22 (Whereupon, the jury entered the courtroom.)

23 THE COURT: Be seated.

24 How's everyone doing?

25 SEVERAL JURORS: Good.

1 THE COURT: Good.

2 We anticipate just our normal schedule this afternoon.
3 So we'll go until about 3:00 or 3:10 and take an afternoon
4 break, and then wrap up at 5:00.

5 So please proceed.

6 MR. BRYANT: Thank you, Your Honor.

7 Q. (BY MR. BRYANT) Mr. Bell, before the lunch break you had
8 talked to us about how after the Bernie Madoff story came out
9 in mid December 2008 financial community awareness of Ponzi
10 schemes kind of was heightened.

11 I'd like for you to look at what has been marked as
12 Exhibit PX 109, which I misdescribed before the break, so this
13 is what I was referring to.

14 Mr. Bell, can you identify Exhibit PX 109? Can you tell
15 us what that is? Do you have that on your monitor?

16 A. I do not.

17 MR. BRYANT: Can I approach the witness?

18 Q. (BY MR. BRYANT) Let me hand you what has been marked as
19 PX 109. Take your time to identify it, and tell us what it
20 is.

21 A. It's a Bloomberg article referring to the "Stanford firm
22 said to face U.S. probe of CD sales."

23 Q. And what was the date of that?

24 A. This is February 12th, 2009.

25 Q. Does your name appear on that exhibit?

1 A. It does.

2 Q. And what was your connection with that exhibit?

3 A. I forwarded it to Tonya Dokken at Magness. I said, "Just
4 got to Mexico" --

5 Q. You don't need to read it RIGHT now. Just tell us, is
6 this an email that you forwarded to Tonya Dokken?

7 A. Yes, it is.

8 Q. Okay.

9 MR. BRYANT: I'd offer PX 109 into evidence.

10 MR. POWERS: No objection, Your Honor.

11 THE COURT: It's admitted.

12 Q. (BY MR. BRYANT) Now, I believe we can put it up on the
13 screen and I can borrow this back from you, with the Court's
14 permission.

15 Mr. Bell, is there a portion of this PX 109 that you
16 authored?

17 A. Yes, sir.

18 Q. Okay. And could you go ahead and just read that out for
19 the jury?

20 A. Sure. "Just got to Mexico and my hotel, but saw this
21 email and wanted to forward. I think we all had this fear
22 unfortunately. I hope it wasn't a Ponzi scheme and hopefully
23 the money is somewhere."

24 Q. Okay. And when did you forward that to Tonya Dokken?

25 A. The afternoon of February 12th, 2009.

1 Q. Okay. And about how many months after the October 2008
2 loans to Gary Magness did this article come out describing an
3 investigation of Stanford?

4 A. I guess about five.

5 Q. And about how many months after Bernie Madoff's Ponzi
6 scheme became public was it when this article came out and you
7 forwarded it to Ms. Dokken?

8 A. I think it's about the same time.

9 Q. Well, about how many months had it been from the Bernie
10 Madoff disclosure, which was mid December?

11 A. Okay. Mid December? I'm sorry. So two -- two months.

12 Q. Okay. Now, in this email you indicated that this news,
13 you said, "I think we all had this fear unfortunately." What
14 did you mean by that?

15 A. My recollection is just kind of going through what we
16 went through in 2008, seeing what happened to Bernie Madoff,
17 and, again, just things appeared to be too good to be true, so
18 that was my fear that there was something amiss.

19 Q. Okay. I think you also said, "I hope it wasn't a Ponzi
20 scheme." As of February 12th, 2009, did even -- did you know
21 even then that Stanford was a Ponzi scheme?

22 A. I did not.

23 Q. Now, Mr. Bell, had you believed that Stanford was a fraud
24 or Ponzi scheme at any time prior to this February of 2009
25 time period, knowing that Gary Magness had tens of millions of

1 dollars in Sanford CDs, would you have told Gary Magness that
2 Stanford was a Ponzi scheme in your view?

3 A. I would have if I -- but I never did.

4 Q. And had you done so and he'd taken his money from
5 Stanford and moved it to Merrill Lynch, you would have
6 benefited. Right?

7 A. Yes, sir.

8 Q. And despite that potential -- that interest that you
9 might have had in doing so, you never thought that was the
10 right thing to do to express any view to Gary Magness that you
11 thought Stanford was a Ponzi scheme?

12 A. I didn't.

13 MR. BRYANT: I pass the witness.

14 MR. POWERS: Your Honor, may I approach the witness?

15 THE COURT: Yes.

16 CROSS EXAMINATION

17 By Mr. Powers:

18 Q. Good afternoon, Mr. Bell.

19 A. Good afternoon.

20 Q. We had the opportunity to meet at your deposition.
21 Correct?

22 A. Yes.

23 Q. And I had the opportunity to ask you some questions and
24 you provided some testimony under oath.

25 A. I did.

1 Q. We have not otherwise met or talked.

2 A. Correct.

3 Q. Okay. Now, you just had a chance to visit with
4 Mr. Bryant. I saw that you walked in the courtroom with him.
5 I take it you had an opportunity to visit with him before the
6 proceedings today?

7 A. I did.

8 Q. And before the deposition, I think you had the
9 opportunity to visit by phone twice with Mr. Petrie. Is that
10 true?

11 A. Either once or twice, yes.

12 Q. Right. And you gave him some information that you
13 thought might be helpful to Mr. Magness and his case. Is
14 that correct?

15 A. Yes.

16 Q. Okay. Now, Mr. Magness has been a client of yours since
17 2002. Did I understand that correctly?

18 A. Yes.

19 Q. And Mr. Bell, is it a fair summary that you reached out
20 to Mr. Magness in hopes of starting a business relationship
21 with him?

22 A. Originally? Yes.

23 Q. And you were successful in doing so.

24 A. Yes.

25 Q. Now, when you reached out to Mr. Magness, you didn't know

1 a lot about him, other than his wealth, essentially. Correct?

2 A. Correct.

3 Q. And when you reached out to him, he was having some kind
4 of a margin loan situation with Citibank. Is that right?

5 A. That's correct.

6 Q. And in that margin loan situation, he wasn't able to get
7 the types of margin lending terms that he wanted, and Merrill
8 Lynch was able to -- or, excuse me, Goldman at the time.
9 Right?

10 A. Yes. It was Goldman.

11 Q. Goldman was able to help him with that margin lending
12 situation, wasn't it?

13 A. Correct.

14 Q. And through addressing that margin lending situation to
15 his satisfaction, that's the way you were able to get him on
16 as a client?

17 A. Correct.

18 Q. And at that time he brought over what? About \$10 million
19 or so in securities?

20 A. I think that's about right. Yes, sir.

21 Q. By the time the Stanford situation came flying apart in
22 February 2009, you had, I think you said earlier, SOMETHING
23 like \$300 million in securities.

24 A. Yeah. I don't know what the actual number was, but it
25 was over a hundred for sure.

1 Q. And I heard some references to -- through the testimony
2 that Mr. Magness has continued to do pretty well, so I assume
3 you have even greater assets under your management even today.

4 A. Yes.

5 Q. Now, you are on a commission basis with Mr. Magness.

6 A. I am.

7 Q. Can you just estimate for the jury how much you have made
8 through the Magness accounts or how much Merrill Lynch has
9 made through the Magness accounts over the years he's been a
10 client of yours?

11 A. I wouldn't have an idea.

12 Q. Could you ballpark it in any way?

13 A. I'd say it's on a per trade basis, so my guess is
14 anywhere from 25,000 a year to 150,000 a year.

15 Q. Mr. Magness and his entities, I assume, are important
16 clients of yours.

17 A. Yes.

18 Q. All things being equal, you would prefer to be helpful to
19 your client than unhelpful. Isn't that true?

20 A. Yes.

21 Q. Nevertheless, here you are today in court, and you
22 recognize, Mr. Bell, that you have an obligation to answer
23 the questions under oath truthfully and completely.

24 A. A hundred percent.

25 Q. And you recognize that you had that same obligation at

1 your deposition just a few months ago. Correct?

2 A. Correct.

3 Q. So we heard some testimony from you just a few minutes
4 ago about margin calls, and I want to address that topic with
5 you. Okay?

6 A. Okay.

7 Q. Fair enough?

8 The fact that Mr. Magness had margin debt in 2008, that's
9 not new in 2008, is it?

10 A. Pardon me?

11 Q. The fact that Mr. Magness had margin debt in 2008, that
12 wasn't a new phenomenon.

13 A. Meaning he had it prior?

14 Q. Right.

15 A. Yes.

16 Q. And he had it all the way back to when you first started
17 working with him.

18 A. Correct.

19 Q. And, in fact, October 2008 was not the first time
20 Mr. Magness ever had a margin call, is it?

21 A. No, not to my -- I mean, maybe not with us, but -- I
22 don't recall if he had one with us prior to that or not, but
23 I'm sure he's had one, given the relationship with Citi.

24 Q. Right. He had a difficult situation with Citi that you
25 helped him out with, so --

1 A. Correct.

2 Q. -- the concept of dealing with a difficult margin
3 situation, that was not a new phenomenon in October of 2008.

4 A. No.

5 Q. Now, you went through some particular margin calls, and I
6 just want to see if I can recap it.

7 You said there was a \$6 million margin call. Do you
8 recall that one?

9 A. Yes.

10 Q. There was a \$1.7 million margin call. At least there was
11 an email about that.

12 A. Yes.

13 Q. Now on that one --

14 MR. POWERS: Can we pull that one up? That is
15 Plaintiff's Exhibit 374. And can we get the second email in
16 the chain?

17 Q. (BY MR. POWERS) Now, this one is just an email. Right?

18 A. Correct.

19 Q. We didn't see one of these formal margin call forms like
20 we saw for the other two, did we?

21 A. I didn't see one.

22 Q. And, in fact, the second sentence says somebody named
23 Chris Meditz -- is that a Merrill Lynch person?

24 A. It is.

25 Q. Is checking a Comcast concession. Do you want to tell

1 the jury what that means, please?

2 A. So since he has concentrated positions, he's got a large
3 number of shares, typically they will only initially loan off
4 of maybe 25,000 shares. That's just kind of the standard
5 default. So in order to get a bigger release on more shares,
6 you have to do what's getting concession; make sure that all
7 shares are being used as collateral.

8 Q. And, in fact, this is one of those situations where you
9 have gotten a special arrangement with Mr. Magness, and so he
10 has a better deal with you than he might just by the default
11 rules, isn't it?

12 A. No.

13 Q. This Comcast concession is not?

14 A. No.

15 Q. But -- and do you have any idea, based on the documents
16 that you've seen today, whether this margin call actually
17 resulted in a formal notice like the ones we saw in
18 Plaintiff's Exhibit 342 and Plaintiff's Exhibit 344?

19 A. I don't know.

20 Q. And we can't see it based on the documents that you
21 reviewed with Mr. Bryant just a few minutes ago.

22 A. I didn't see it.

23 Q. Okay. Now -- and then the last one was Plaintiff's
24 Exhibit 344.

25 MR. POWERS: Can we pull Plaintiff's Exhibit 344 up?

1 And can we blow up the middle portion that shows the amount of
2 the maintenance call, the amount due?

3 Q. (BY MR. POWERS) And the amount due on this one is
4 77,000. Right?

5 A. It is.

6 Q. It's not 77 million. 77,000.

7 A. Correct.

8 Q. Okay. And we saw some accounts with Gary Magness on your
9 testimony with Mr. Bryant where he had 40, 50, 60, 60, 80
10 million in accounts. Right?

11 A. Yes.

12 Q. So let's suppose for the sake of argument that the
13 \$1.7 million call is really, in fact, a call, and we have the
14 \$6 million call, and we have the \$77,000 call. All told,
15 that's less than \$8 million. Right?

16 A. Correct.

17 Q. And I think I heard Mr. Bryant say something about
18 wanting to skip over some details, but I want to ask you about
19 that.

20 Were there any details about margin calls that
21 Mr. Magness experienced in October 2008 at Merrill Lynch that
22 you wanted to provide?

23 A. I don't know what you're asking. Specific details like?

24 Q. Well, we've seen two or maybe three. Right?

25 A. Uh-huh.

1 Q. And so my question is, do you have details regarding any
2 additional margin calls that Mr. Magness had in October of
3 2008 at Merrill Lynch?

4 A. I don't have any details.

5 Q. Now, when you get one of these margin calls, I think you
6 described there are a number of ways you can deal with it.
7 True?

8 A. Correct.

9 Q. One of the ways you can deal with a margin call is to
10 simply sell some of the stock.

11 A. Correct.

12 Q. That is securing the loan, and you can pay down the loan.
13 And I assume you must know that Mr. Magness sold some of
14 his stock in the fall of 2008 to address some margin calls and
15 some margin loan situations.

16 A. Yes.

17 Q. And another way -- I think you may have talked about
18 this. Another way to address a margin call would be to move
19 more stock into an account.

20 A. Yes.

21 Q. All right. Let's see if we can look at an example. And
22 I think we've seen this one. This is Plaintiff's Exhibit 378.
23 I wanted to ask you about this one.

24 Now, if we go to the bottom email, this is the October
25 10th email that I think you reviewed with Mr. Bryant.

1 Linda Shaw is a Merrill Lynch person?

2 A. Yes.

3 Q. And she is sending you this email -- or, excuse me,
4 sending David Stutsman this email in the early morning on
5 October 10th. Is that right?

6 A. Yes.

7 Q. 7:50 a.m.

8 A. Correct.

9 Q. And now she has copied you. Is that correct?

10 A. Yes.

11 Q. Now, it says, "Please be advised that Mr. Magness has a
12 current call of 781,000 in the above account." So that's the
13 margin call you're dealing with in the early morning on
14 October 10th. Right?

15 A. Correct.

16 Q. All right. Let's look at your response.

17 Would you agree with me you sent your response just five
18 minutes later?

19 A. I would.

20 Q. And you have very quickly decided apparently that you're
21 just going to move stock over from 0197. I take it that's
22 another one of Mr. Magness' accounts at Merrill Lynch?

23 A. It is.

24 Q. And then you asked the question, "Please let us know what
25 we need to move over to satisfy the call."

1 A. Correct.

2 Q. Now, you gave some testimony about how much stock you
3 might have to sell if, for example, you had a \$6 million call,
4 just a few minutes ago, and I think you gave the number 18
5 million.

6 A. Yeah. I think the calculation comes to 3.33 times --

7 Q. Okay.

8 A. -- actually.

9 Q. But it wouldn't work the same in this context--that is,
10 where you're just moving more stock into the account, would
11 it?

12 A. No.

13 Q. And so let's go to the next email and see how much stock
14 you would have to move into the account to solve this
15 particular \$700,000 problem.

16 And what's the number to solve it?

17 A. In this case it's \$1,116,900.

18 Q. All right. So that's an example of Mr. Magness moving
19 more stock into an account to address a margin call. Right?

20 A. Correct.

21 Q. And this is happening on October 10th, 2008.

22 A. Correct.

23 Q. Now, another way to deal with a margin call would be for
24 Mr. Magness to borrow money from another bank where he had a
25 line of credit and pay back some of the loan. Right?

1 A. Yes.

2 Q. And you had some experience with Mr. Magness taking money
3 from Merrill Lynch and paying it to other banks. I think you
4 testified about some of it.

5 A. Yes.

6 Q. Let's take a look at Plaintiff's Exhibit 134, and it
7 should be in the notebook in front of you. You can also look
8 at the screen.

9 A. All right.

10 Q. Now, this is the minutes of a regular board meeting of
11 Mango Five Family, Inc. on October 1st, 2007. Do you see
12 that?

13 A. I see that.

14 Q. And let's look at the top two paragraphs and let's see if
15 we can see whether you are present at this meeting. There are
16 a number of people in the first paragraph who are on the board
17 of directors. Do you see those names? Mr. Magness,
18 Mr. Sutton, and Mr. Knudson. And then there's Ms. Dokken.
19 Right?

20 A. Yes.

21 Q. And then we have Mr. Armstrong who has called into this
22 meeting. Do you see that?

23 A. Yes.

24 Q. Now, you have been to some of these meetings in the
25 past--that is these Mango Five meetings.

1 A. Yes.

2 Q. In the recent past, sometimes when you go to like a
3 Christmas party or something and then there's a meeting that
4 happens contemporaneously, you've been to some of the
5 meetings.

6 A. Yes.

7 Q. But correct me if I'm wrong, but I haven't seen your name
8 on any of the meetings that we've been looking at in this case
9 from October 2007 to April 2009. It doesn't appear that you
10 attended any of those meetings, does it? Or do you know?

11 A. I can't recall.

12 Q. Okay. You're not at this one in particular anyway.

13 A. I don't think so.

14 Q. Okay. There is something about Merrill Lynch in this
15 document, and I want to ask you about it.

16 MR. POWERS: And Mr. Jarrett, can you please turn to
17 the second page? And let's look at the first two paragraphs
18 on the second page where I think Merrill Lynch is mentioned.

19 Q. (BY MR. POWERS) And it says that the trust has an
20 outstanding margin loan with Merrill Lynch in the amount of
21 \$50 million, and apparently what has happened is the trust
22 borrowed \$50 million from Merrill Lynch and used it to satisfy
23 indebtedness to HSBC. Is that right?

24 A. Yes.

25 Q. And do you recall that situation?

1 A. Vaguely, yes.

2 Q. And the second paragraph says that Ms. Dokken indicated
3 she was negotiating with U.S. Bank, HSBC, and Stanford for a
4 new loan facility. Is that right?

5 A. Yes.

6 Q. And that's not uncommon, is it--that is, for Mr. Magness
7 and his entities to negotiate with banks to move around his
8 lines of credit from one bank to another? You've had
9 experience with that.

10 A. Yes.

11 Q. And the same thing happened in October 2008 where
12 Mr. Magness took his entire line of credit at U.S. Bank
13 and moved it over to Merrill Lynch.

14 A. Yes. Or I don't know if it was the entire, but there was
15 accounts moved over.

16 Q. And it was pretty substantial; tens of millions of
17 dollars, wasn't it?

18 A. Yes.

19 Q. And he did that right around the time he was getting
20 these purported loans from Stanford International Bank. That
21 is in October 2008.

22 A. Okay.

23 Q. And I'm sure you would agree that one of the things
24 Mr. Magness would be interested in when he's having these
25 negotiations is, where can I get the best interest rate.

1 A. Yes. Part of it, absolutely.

2 Q. Because he's borrowing tens of millions of dollars.
3 Right?

4 A. Sure.

5 Q. And every percentage point counts if you are borrowing
6 tens of millions of dollars.

7 A. Yes.

8 Q. Now, by the end of October 2008, the evidence has been
9 that Mr. Magness has taken purported loans of \$88.2 million
10 from Stanford International Bank. Are you aware of that?

11 A. I didn't know the number.

12 Q. The evidence is that he borrowed \$88.2 million at 11.148
13 percent. Did you know that?

14 A. I did not.

15 Q. Let's take a look at Plaintiff's Exhibit No. 85 just so
16 you don't have to take my word for it.

17 MR. POWERS: And can we go -- this is -- can we go
18 to the second page, please? And if we can blow up the top
19 half of the page.

20 Q. (BY MR. POWERS) We can see this is a promissory note.
21 And do you see, Mr. Bell, that this relates to a promissory
22 note for \$12 million? And you can see the interest rate of
23 11.148 percent right there in the middle of the page. Do you
24 see that?

25 A. Yes.

1 Q. And if we get back out of this and go to the first page
2 and we look at the address block, you can see that this is the
3 \$12 million that went to GMAG, LLC. Do you see that?

4 A. I do.

5 MR. BRYANT: Your Honor, I am going to object at
6 this point. It is just the attorney testifying and questions
7 aren't being asked. Mr. Bell's already said he doesn't know
8 about the specifics of the Stanford loan.

9 THE COURT: Overruled.

10 Q. (BY MR. POWERS) Now, to find out what kind of available
11 credit Mr. Magness had at Merrill Lynch as of the end of
12 October 2008, we could look at his Merrill Lynch account
13 statements, could we not?

14 A. Say that again. I'm sorry.

15 Q. Sure. We looked at some Merrill Lynch account
16 statements --

17 A. Right.

18 Q. -- earlier. Just with Mr. Bryant you looked at those?

19 A. Yes.

20 Q. And if we look at those account statements, we can figure
21 out what Mr. Magness' line of credit was at Merrill Lynch as
22 of the end of October 2008.

23 A. What he was drawing down on, yes.

24 Q. And what available credit he still had.

25 A. Oh, yes. On some of them, yes.

1 Q. And so there was, I gather, some jostling among accounts,
2 from U.S. Bank to HSBC to Merrill Lynch to Stanford, but if we
3 wanted to know where everything settled at the end of October
4 2008 we could look at these Merrill Lynch account statements.

5 A. We received some of this, yes, absolutely.

6 Q. And we could see what was the status of his available
7 credit at Merrill Lynch as a consequence of all of this
8 movement.

9 A. You definitely could see the amount he's drawn down. I
10 don't know if you could see the absolute available credit
11 offered to him on a statement.

12 Q. Okay. Well, let's take a look at it and see if we can
13 sort it out. Please take a look at Plaintiff's Exhibit 346,
14 if you would. And this is an account for, if you look at the
15 top left corner, the Gary Magness Irrevocable Trust. Right?

16 A. Yes.

17 Q. And if we look in the top middle of the page we can see
18 it's for account 0396. Right?

19 A. Yes.

20 Q. And if we look on the right hand side of the page, we can
21 see this is for the month ending October 31st, 2008. Do you
22 see that?

23 A. Correct, yes.

24 Q. Now, if we turn to the third page of the exhibit, which
25 is 0259 in the bottom right corner, what do we see on the left

1 hand side of the page at the bottom of the column?

2 A. It does show the margin available credit.

3 Q. Okay. So in this particular account we have margin
4 available credit of almost \$13 million. Would you agree with
5 that?

6 A. Yes.

7 Q. And if we turn to page 7, which is 0263, and we look in
8 the bottom section of the page in the middle column under
9 description, we can tell how much he's being charged in
10 interest for whatever he's got outstanding in this account,
11 can we not?

12 A. Yes.

13 Q. And that interest in this account is 4.17 percent.
14 Right?

15 A. Yes.

16 Q. So if he wanted to borrow \$13 million at the end of
17 October 2008 to do whatever he wanted to do with, he would
18 borrow it at approximately this interest rate.

19 A. I don't know if that's correct.

20 Q. That's what's reflected on the statement.

21 A. Well, so -- oh, this is for 9/30 through 10/30. Yes.
22 I'm sorry. I thought that was 9/23. I'm mistaken. Yes, that
23 would be correct--4.17.

24 Q. Let's look at a couple of other accounts. Please turn to
25 Plaintiff's Exhibit 345.

1 All right. Now, this is an account in the name of GMAG,
2 LLC. And this is the same one that borrowed the \$12 million
3 from Stanford at 11.148 percent. Right?

4 A. Correct.

5 Q. And this is account number 7010 at the top of the page.

6 A. Yes.

7 Q. And on the top right we see this is for the month ending
8 October 31st, 2008, do we not?

9 A. Yes.

10 Q. All right. Let's take a look at the third page of the
11 exhibit labeled 0071. And we have that same margin available
12 credit. What's the margin available credit in this account?

13 A. \$12.3 million.

14 Q. Let's come back to it. I tell you what. There's a
15 notebook right in front of you. If you turn to Plaintiff's
16 Exhibit 345 in the notebook and turn to the third page of the
17 exhibit.

18 A. Okay.

19 Q. And what's the margin available credit on the third page
20 of the exhibit?

21 A. \$12,371,000.

22 Q. So almost 12.4 million.

23 A. Yes.

24 Q. And if you would turn to page 8 of the exhibit, 0076 in
25 the bottom right corner, what interest rate is Mr. Magness

1 being charged in this account?

2 A. 3.2.

3 Q. 3.2 percent.

4 A. Yes.

5 Q. All right. Let's take a look at one more statement.

6 Please turn to Plaintiff's Exhibit 368 in your notebook.

7 Do you have Plaintiff's Exhibit 368?

8 A. I do.

9 Q. And this is an account in the name of Gary D. Magness.
10 Correct?

11 A. Correct.

12 Q. And we have 368 up on the screen, and we can see Gary
13 Magness' name in the top left hand corner. And this is
14 account number 0423.

15 A. Yes.

16 Q. And this is for the month ending October 31st, 2008.
17 Right?

18 A. Yes.

19 Q. And if you would turn with me, please, to the fifth page
20 of the exhibit--this will be labeled 00311--we see the margin
21 available credit in the bottom left. And what is the margin
22 available credit on this one?

23 A. \$3,835,589.

24 Q. All right. And if you could look with me to page 9 of
25 the exhibit, what interest rate is Mr. Magness being charged

1 on this line of credit?

2 A. 3.82 percent.

3 Q. So would you agree with me that the end of October of
4 2008 that Mr. Magness and his entities had lines of credit at
5 Merrill Lynch of just about \$29 million?

6 A. Yes.

7 Q. And the interest rate to borrow against those lines of
8 credit would be between 3.2 percent and 4.17 percent. Right?

9 A. Correct.

10 Q. So he has enough credit at this time at Merrill Lynch to
11 borrow 29 plus million dollars at three to four percent, and
12 repay that \$12 million loan we saw and then some, doesn't he?

13 A. The \$12 million loan?

14 Q. The \$12 million at Stanford.

15 A. Oh, yes.

16 Q. And he had another \$7.2 million loan. That would have
17 covered that one, too, wouldn't it have?

18 A. Yes.

19 Q. Let me talk to you about one more account, which is an
20 account in the name of GMAG. And I think you talked to
21 Mr. Bryant about this one.

22 MR. POWERS: Can we pull Exhibit 88, please?

23 Q. (BY MR. POWERS) Now, I think you gave the testimony that
24 you took some Stanford proceeds and put it into a money market
25 account at Merrill Lynch. Right?

1 A. Correct.

2 Q. And this is the account where you put it. Right?

3 A. Yes.

4 Q. And GMAG, LLC is the entity on the top left hand side of
5 the page. And this is account number 2098. And this is for
6 the month ending October 31st, 2008. Right?

7 A. Correct.

8 Q. And we can see -- if we look at the middle column under
9 October 31st, we can see that there's net cash in-flow into
10 this account of \$12 million.

11 A. Yes.

12 Q. And that's the \$12 million that came out of Stanford
13 International Bank.

14 A. Yes.

15 MR. POWERS: All right. Let's back out of this, and
16 we'll stay on the exhibit, but if you would turn to page 4,
17 Mr. Jarrett.

18 Q. (BY MR. POWERS) We see on the left hand side of the page
19 that ML government fund. That's the money market account you
20 were talking about?

21 A. Yes.

22 Q. And if we go all the way to the right of the page, we can
23 see the estimated annual yield for that money market, can we
24 not?

25 A. Yes.

1 Q. And the estimated annual yield for this money market
2 account is 1.79 percent. That's true.

3 A. That's what it says, yes.

4 Q. Now, Mr. Bryant suggested that the \$12 million that was
5 in this account was used for margin calls some point in the
6 future, and I believe you said yes, I assume so.

7 A. I did say that.

8 Q. And, in fact, you don't actually know whether it was used
9 for margin calls or not.

10 A. I can't recall exactly what the funds were used for.

11 Q. As far as you know, none of it was used for margin calls.

12 A. Correct.

13 Q. So when Mr. Magness borrowed \$12 million from Stanford at
14 11.148 percent, he did so for the privilege of putting it at
15 Merrill Lynch where it earned 1.79 percent.

16 A. Yes.

17 Q. Now, if Mr. Magness still believed at this time what
18 Stanford was telling the public, which is everything's fine
19 this is a great bank, that doesn't make a lot of sense, does
20 it?

21 A. No. Depends on what you mean.

22 Q. Well, it would make sense if he didn't believe in
23 Stanford and he wanted to get his money out of an unsafe place
24 and put it into a safe place, then you could trade a
25 percentage like that. That would make sense.

1 A. I mean, there's lots of reasons to borrow money at
2 different percentage rates is all I would say.

3 Q. Well, I want to talk about some specific reasons
4 Mr. Magness may have done that.

5 Now, Ms. Dokken testified yesterday --

6 MR. POWERS: Mr. Jarrett, can we pull up that
7 testimony? It's Volume 3, page 96, line 16 through 20.

8 Q. (BY MR. POWERS) She was asked, "Did you ever discuss
9 with Mr. Bell prior to February 12th, 2009 that Stanford might
10 be too good to be true?"

11 Her response was, "Oh, certainly, when they wouldn't give
12 us our money back. But he"--meaning you--"was very involved
13 in the loan process or whatever, because he was the recipient
14 of a lot of the proceeds."

15 That's true testimony, is it not?

16 A. Yes.

17 Q. All right. Let's see if we can get the context for that
18 statement.

19 MR. POWERS: Mr. Jarrett, you can pull that down.

20 Q. (BY MR. POWERS) I want to first talk to you about when
21 you first heard of Stanford International Bank.

22 Now, this was back in '99 or 2000 when you were at
23 Goldman. Right?

24 A. Yes.

25 Q. And around that time Stanford opened an office in

1 Memphis.

2 A. Correct.

3 Q. And you were working in Memphis?

4 A. I was.

5 Q. At that point you had not heard of Stanford or Allen
6 Stanford.

7 A. I had not.

8 Q. And what is it that you heard about Stanford when you
9 were working in Memphis? Do you recall?

10 A. Well, they were new, they had really nice offices, and
11 they competed for, you know, high net worth clients. So I
12 think some of our clients at the time in Memphis had visited
13 their offices, or maybe even done business with them. I don't
14 know.

15 Q. And the office that was in -- just to make sure we're
16 clear. The office that was in Memphis was Stanford Group
17 Company, the brokerage.

18 A. It was Stanford is all I knew it by. I don't know the
19 Stanford -- I don't know the actual term, but Stanford is what
20 I knew.

21 Q. And at that time you didn't know anything about the
22 certificate of deposit product.

23 A. I did not.

24 Q. And the next time you heard about anything to do with
25 Stanford or the Stanford International Bank was through your

1 work with the Magness Defendants.

2 A. Correct.

3 Q. And you heard about it in the context of a discussion of
4 the Magness Defendants' portfolio, just here's where we are
5 and here are the things we have and this is one of the things.

6 A. Right. And also Tom Espy I think had worked for him, so
7 I knew that it had come up for sure in portfolio discussion,
8 et cetera, yes.

9 Q. And you had met Tom Espy. He was a very close friend of
10 Gary's?

11 A. I had, yes.

12 Q. And you heard about Stanford International Bank at some
13 point before 2007.

14 A. Yes.

15 Q. And to be frank about it, you never really thought very
16 highly of Stanford International Bank, did you?

17 A. That's correct.

18 Q. You didn't really trust it, did you?

19 A. You know, I don't know about the bank, but the caricature
20 that ran it maybe is what I had skepticism about.

21 Q. The caricature. Tell me what you're referring to,
22 please.

23 A. Just reading articles.

24 Q. Do you recall discussing this with me at your deposition
25 about your level of trust of Stanford?

1 A. I mean, I don't remember specifics, no.

2 Q. Do you recall telling me that you had talked to your
3 business partner Mr. Sands?

4 A. No, my business partner's Mike Russ.

5 Q. Excuse me. Mike Russ. We will get to Mr. Sands.

6 A. Okay.

7 Q. You talked about it to Mr. Russ?

8 A. Yes, I am sure I have.

9 Q. So take a look at your deposition. There's a notebook
10 underneath the notebook that you've got with the exhibits.
11 And turn with me to page 131 of your deposition.

12 A. Okay.

13 Q. All right. Let's take the first 12 lines.

14 And you were asked, "When was the first time you remember
15 talking to Mr. Russ"--

16 That's your business partner?

17 A. Yes.

18 Q. "...about Stanford International Bank?"

19 And so you talked about the context in which you first
20 heard about it, and we talked about that.

21 And you ultimately said, "So probably the first time I
22 mentioned something was when I first knew that they were
23 making investments there or that Tom Espy was working there."

24 Similar to what you just said. Right?

25 A. Yes.

1 Q. All right. Let's back out of that and let's look at
2 lines 13 through 17.

3 You were asked, "And did Mr. Russ express any views about
4 Stanford International Bank to you?"

5 And you said, "No. I think we had a similar-type feel
6 for it."

7 And the question was, "And what was that?"

8 And your answer was, "Didn't really trust it."

9 A. Yes.

10 Q. And that was your testimony?

11 A. Yes.

12 MR. POWERS: All right. Mr. Jarrett, we can take
13 that down.

14 Q. (BY MR. POWERS) Isn't it true that early on somebody
15 showed you a pitch book for Stanford that had investment
16 returns described?

17 A. Yes. I don't know what the date was, but yes.

18 Q. And what you saw looked like not fixed CD returns, but
19 actually the returns of an investment portfolio.

20 A. Yes. That's what it appeared to be.

21 Q. And the investment portfolio wasn't just any investment
22 portfolio; it was the investment portfolio for Stanford
23 International Bank, wasn't it?

24 A. I believe so.

25 Q. And I asked you at your deposition what you thought of

1 this returns, and I think you said they were solid returns.

2 That's what you said. Right?

3 A. Yes.

4 Q. And when I asked you about that, I think you kind of
5 chuckled a little bit. Do you remember that?

6 A. I probably did.

7 Q. You probably did?

8 You were skeptical of those returns when you saw them,
9 weren't you?

10 A. Yes.

11 Q. And you notice that in the returns that you saw there
12 were back-to-back years where returns were identical two years
13 in a row all the way out to a hundredths of a percentage
14 point. Do you remember that?

15 A. I do.

16 Q. And I think you told me it would be highly improbable on
17 a portfolio of hundreds of millions or billions of dollars to
18 get that kind of a result. That would be statistically rare,
19 would it not?

20 A. Correct.

21 Q. I mean, one way it could happen is if you were just
22 making up the returns. Right?

23 A. Sure.

24 Q. And it turns out that's what they were doing. Do you
25 agree with that?

1 A. Yes.

2 Q. And I think you may have been alluding to this earlier,
3 but one other thing that was concerning to you was some pretty
4 flamboyant behavior by Mr. Stanford. Right?

5 A. Yes.

6 Q. For example, flying clients to the Caribbean and taking
7 them to lunch in Antigua. That's one of the things that
8 concerned you.

9 A. Yes.

10 Q. I think you also saw a situation where Mr. Stanford had
11 purportedly placed \$20 million into a plexiglass box and
12 dropped it onto a cricket field. Right?

13 A. Yes.

14 Q. And cricket is some kind of sport that is closely
15 analogous to baseball. Right?

16 A. Yes.

17 Q. Or maybe it's more of a distant cousin.

18 A. Right.

19 MR. POWERS: So let's put the money box picture on
20 the screen.

21 Q. (BY MR. POWERS) This is what you saw, isn't it?

22 A. Yes.

23 Q. Mr. Bryant was asking you some questions about
24 competitors and how it's in your interest to talk down
25 your competitors. Do you recall that line of testimony?

1 A. I do.

2 Q. Have you ever seen a picture of the CEO of JPMorgan
3 looking like that?

4 A. I haven't.

5 Q. No. What about HSBC?

6 A. No.

7 Q. Deutsche Bank?

8 A. I don't think so.

9 Q. And when you saw this picture, you thought it was notable
10 enough to share this with Ms. Dokken and make a sarcastic
11 comment about it. Right?

12 A. Probably.

13 MR. POWERS: All right. Mr. Jarrett, we can take
14 that down.

15 Q. (BY MR. POWERS) Now, we saw some video from Ms. Dokken
16 before you came in the courtroom. This was yesterday and the
17 day before. She is also a client of yours.

18 A. Was, yes.

19 Q. She was at the time of the events in question.

20 A. Correct.

21 Q. And she had been a client of yours going back from before
22 the time the SEC shut down Stanford International Bank.

23 A. Correct.

24 Q. At the time she was a client of yours, she had her own
25 SIB CD.

1 A. Yes.

2 Q. And you knew that she had an SIB CD at the time she had
3 it?

4 A. I did.

5 Q. And she testified that she invested in SIB in January
6 2006. Do you have any reason to dispute that?

7 A. I don't.

8 Q. And she also testified that she redeemed her SIB CD in
9 January 2008. Do you have any reason to dispute that?

10 A. I don't.

11 Q. Now, at your deposition you testified that you talked to
12 her about her CD investment vehicle while she still had it and
13 you told her that she should sell it, didn't you?

14 A. I did at some point, yes.

15 Q. Tell her she should sell it.

16 A. Or -- yes.

17 Q. And you told her to sell the CD because you thought it
18 was too much of an allocation to something that was not easily
19 explained.

20 A. Yes. That's probably correct.

21 Q. And what you were concerned about was that you never got
22 a full explanation of what the CD was. Right?

23 A. I didn't.

24 Q. And when you asked Ms. Dokken or Mr. Espy what SIB was
25 invested in, you never got a clear answer, did you?

1 A. I was just told it was like a hedge fund of funds type of
2 investment.

3 Q. But what you told me is whenever you would ask, you never
4 got a clear answer.

5 A. Okay.

6 Q. You never got an answer that was satisfactory to you, did
7 you?

8 A. No.

9 Q. And as a consequence of that, you advised Ms. Dokken to
10 redeem her CD, and that's what she did.

11 A. Yes.

12 Q. Now, in your response to your advice to her, she told you
13 she was redeeming her CD, didn't she?

14 A. At some point, yes.

15 Q. And do you recall her giving you any other reason for
16 having redeemed her CD other than the advice that you gave
17 her?

18 A. I never asked. I don't recall, to be honest.

19 Q. Now, the financial markets in March 2008 were in pretty
20 bad shape. Wouldn't you agree?

21 A. March of '08?

22 Q. March of '08.

23 A. Yes. I would guess so.

24 Q. I mean, for example -- and I think you gave some
25 testimony about major financial institutions that failed or

1 got bought out in 2008.

2 A. Yes.

3 Q. And the financial institution du jour in March 2008 was
4 Bear Stearns. Right?

5 A. If you say so. I knew it was prior to Lehman for sure.

6 Q. And the markets continued to deteriorate into July of
7 2008, didn't they?

8 A. Yes.

9 Q. Let's look at a quarterly report for SIB in the second
10 quarter of 2008.

11 MR. POWERS: Mr. Jarrett, would you pull up
12 Plaintiff's Exhibit 474?

13 Q. (BY MR. POWERS) I assume you didn't receive these SIBL
14 quarterly updates.

15 A. No.

16 Q. I just want to look with you at this. This is the SIBL
17 quarterly update. And if you see at the bottom right hand
18 side, this is for the quarter ending June 30th, 2008. Do you
19 see that?

20 A. I do.

21 Q. And if we turn to the last page of the exhibit, which I
22 think is page 4, let's look at the index returns at the
23 bottom.

24 For the first six months of the year the Dow is down 14
25 and a half percent. Do you see that?

1 A. I do.

2 Q. The Dow Jones Stoxx 50 in Europe is down over 20 percent.
3 Is that right?

4 A. Yes.

5 Q. The NASDAQ 100 stock index is down almost 12 percent. Is
6 that right?

7 A. Yes.

8 Q. S&P 500 is down almost 13 percent. Correct?

9 A. Yes.

10 Q. And without holding you to the specific, you know,
11 thousandths of a point here, or ten thousandths of a point,
12 this is pretty consistent with your recollection of where the
13 market was in the summer of 2008, isn't it?

14 A. Yes.

15 Q. And this is a pretty big deal that the market is this far
16 off in the first six months of the year. Right?

17 A. Sure.

18 Q. And it's only going to get worse from here, as we know.

19 MR. POWERS: Now, Mr. Jarrett, you can take that
20 down.

21 Q. (BY MR. POWERS) I think you testified on direct that in
22 September 2008 Lehman collapsed.

23 A. Yes.

24 Q. They filed for bankruptcy. And are you aware that that
25 was September 15th, 2008?

1 A. I was not aware of that.

2 Q. Willing to take my word for it?

3 A. I am.

4 Q. Now, when that happened--that is, Lehman collapsed--that
5 was kind of a big deal, too. Right?

6 A. Very much so.

7 Q. From your perspective, there was no safe place any longer
8 in the market other than U.S. treasuries and gold.

9 A. For the most part, yes.

10 Q. And it would be fair to say that it was common knowledge
11 for investors and brokers in September 2008 that the market
12 was extremely distressed.

13 A. Correct.

14 Q. And it was certainly well known to the Magness Defendants
15 as one of the consequences of this market volatility and, you
16 know, market drop, steep market drop, they had to move things
17 around and deal with their margin lending from various
18 institutions. Right?

19 A. Yes.

20 Q. And this is something that you personally participated
21 with them in dealing with.

22 A. Correct.

23 Q. Fair to say that in September of 2008 and early October
24 2008 you and Ms. Dokken were talking quite a bit?

25 A. Yes.

1 Q. Because some margin calls were coming up, and even margin
2 calls, when they were not coming up, you were trying to
3 anticipate where margin calls might appear. Right?

4 A. Correct.

5 Q. And by October 1st, 2008, it had become clear, had it
6 not, that margin calls might be coming because some of the
7 Liberty stock might fall below a \$10 floor. Do you recall
8 that happening?

9 A. Yes.

10 Q. And, of course, by this point Lehman has collapsed and
11 she's talking to you about those issues, too--the state of the
12 markets in general. Right?

13 A. Yes.

14 Q. Fair to say there was pretty constant communication at
15 the beginning of October and the end of September 2008?

16 A. I would say so.

17 Q. And at this point in time you thought Stanford was too
18 good to be true, didn't you?

19 A. Probably, yes.

20 Q. And so as an investment advisor with your clients' best
21 interests at heart, naturally you conveyed that information to
22 Ms. Dokken. You told her Stanford is too good to be true,
23 didn't you?

24 A. Probably, yes.

25 Q. And Mr. Bell, it had to have come up at that point. You

1 must have said something to her like, you see what's happening
2 everywhere else in the market--here at Merrill Lynch, at HSBC,
3 everywhere--and Stanford is doing fine. Something doesn't add
4 up. You must have told her something just like that.

5 A. I mean, I don't know exactly what I said, but yeah,
6 something.

7 Q. Well, let's see what you said at your deposition.

8 MR. POWERS: Mr. Jarrett, let's pull up the video
9 clip from page 39, line 21 to page 40, line 13. 52-010.

10 "What was it that made you call her to advise that they
11 get out because the returns were too good to be true?

12 "Because the markets were in severe stress and it just
13 seemed like it's too good to be true.

14 "But what stood out for Stanford International Bank on
15 your mind in particular?

16 "Because I knew she had -- for her individually she had a
17 large allocation of her net worth in it. So, you know, we
18 were having discussions a lot at that time. You know, Gary
19 had significant loans with Merrill Lynch. He was having
20 margin calls, not just with us but with, you know, I knew his
21 other providers, HSBC, U.S. Bank, anywhere where he had margin
22 debt, so there was constant communication that I think, you
23 know, had to have come up at that point, like you see what's
24 happening everywhere and here it's going great. Something
25 doesn't add up."

1 Q. (BY MR. POWERS) And so what you told her was that
2 Mr. Magness needed to hit the exit door. That's what you
3 told her, isn't it?

4 A. Probably, yes.

5 Q. And that was around the time of the Lehman collapse or,
6 just a little bit after, wasn't it?

7 A. I would guess so, yes.

8 Q. And when you told her that, Mr. Magness had not yet
9 gotten any money out of Stanford, as far as you were aware.

10 A. Not that I was aware.

11 Q. And, of course, as we know, you were part of receiving
12 the proceeds from Stanford, so you would have reason to know
13 when they got money out of Stanford, wouldn't you?

14 A. Yes.

15 Q. And when you got the money out, she didn't say, no, don't
16 worry, everything's fine, we got \$88 million out.
17 Everything's going to be okay. She didn't tell you that, did
18 she?

19 A. No.

20 Q. So you know that you told them it was too good to be true
21 and you needed to hit the exit door, and that's exactly what
22 they did.

23 A. Again, I don't know what hitting the exit door meant
24 specifically, but yes, I thought it was time to sell that CD
25 if they could.

1 Q. So you wanted them to get out as much money as they
2 possibly could, and that's what they did.

3 A. Yes.

4 Q. Now, in this trial we've heard the term Ponzi scheme a
5 number of times, and I think you've used the term Ponzi
6 scheme, and you answered some questions about the term Ponzi
7 scheme from Mr. Bryant.

8 The term Ponzi scheme did not originate with Bernie
9 Madoff, did it?

10 A. No.

11 Q. It's not called a Madoff scheme, is it?

12 A. No.

13 Q. No. It's called a Ponzi scheme. That term's been around
14 for a really long time, hasn't it?

15 A. Yes.

16 Q. And you would agree with me that you have known what a
17 Ponzi scheme was since 1999, 2000?

18 A. For sure, yes.

19 Q. Yeah. You'd agree with me that Ponzi schemes often offer
20 fictitious returns?

21 A. Yes.

22 Q. And fictitious returns that are too good to be true?

23 A. Yes.

24 Q. Ponzi schemes work until everybody wants to hit the exit
25 door, don't they?

1 A. Yes.

2 Q. Fair to say, you've had that understanding that we've
3 just discussed all the way back to '99 and 2000, each of those
4 elements.

5 A. Yes.

6 Q. Now, let's fast forward to February 2009. I want to talk
7 to you about that Plaintiff's Exhibit 109.

8 A. Okay.

9 MR. POWERS: And if we could pull that document up.

10 Q. (BY MR. POWERS) I just want to make sure we have the
11 timeline right. Let's look at your email, the from, sent and
12 to.

13 February 12th, 2009. This is before the SEC files a
14 lawsuit against Stanford to shut it down. Right?

15 A. If you say so.

16 Q. And the subject is you're forwarding a Bloomberg news
17 article entitled "Billionaire Stanford firm said to face U.S.
18 probe of CD sales." Do you see that?

19 A. Yes.

20 Q. And, of course, this is not the first time Bloomberg has
21 reported on Stanford facing a probe by regulators in the U.S.,
22 is it?

23 A. I don't know. I can't remember.

24 Q. Well, let's take a look at Plaintiff's Exhibit 65 and see
25 if that refreshes your recollection.

1 A. Okay.

2 MR. POWERS: And let's focus in on the top two
3 paragraphs and the title -- let's get the title of the
4 article, too.

5 Q. (BY MR. POWERS) This is a July 3rd, 2008 Bloomberg
6 article. Correct, sir?

7 A. Yes.

8 Q. And it's entitled "SEC investigating Stanford group
9 offshore CDs and investments."

10 A. Yes.

11 Q. Now, I think you told me at your deposition you had not
12 recalled seeing this when it came out. Is that right?

13 A. I don't think so.

14 Q. But if you had seen it, you thought this would be
15 something that would be of concern to you as a financial
16 advisor that the SEC is probing Stanford International Bank.

17 A. Yes.

18 Q. And it would have reinforced your already negative
19 opinion about Stanford, would it not have?

20 A. Yes.

21 Q. And it says that in the beginning of the second
22 paragraph, "The SEC issued subpoenas yesterday to two former
23 Stanford Group employees asking for information about the CD
24 sales by its offshore bank, Stanford International Bank,
25 Limited."

1 Now, if the SEC is getting involved and sending subpoenas
2 to people, that's kind of a big deal. Right?

3 A. It is.

4 Q. That would be significant to you as a financial
5 professional. You would definitely want to ask more questions
6 about what is going on here in Antigua.

7 A. Sure.

8 MR. POWERS: All right. Let's go back to
9 Plaintiff's Exhibit 109, and go to the second page where we
10 have the article itself. And let's take from the title, which
11 is highlighted, down to "routine exam" and let's take a look
12 at that.

13 Q. (BY MR. POWERS) And, again, we see some discussion about
14 the fact that the SEC is looking into the Stanford
15 International Bank.

16 And then look at the bottom of that section. It's
17 talking about the returns of the Stanford International Bank
18 investment portfolio being consistently between 10.3 percent
19 and 15.1 percent every year from 1995 until 2008. Do you see
20 that?

21 A. I do.

22 Q. That's the kind of returns that you thought were
23 improbable when you first were exposed to this bank, aren't
24 they?

25 A. Yes.

1 Q. And according to Mr. Burke Files, the principal of
2 financial examinations and evaluations, he says, "These
3 returns fall outside the bell curve of probability." And
4 that's what you thought, too.

5 A. Yes.

6 Q. Now, if you could, take a look at Plaintiff's Exhibit 109
7 in the notebook in front of you. The article goes on for
8 about -- the bottom half of this page and then another page.

9 MR. POWERS: May I approach, Your Honor?

10 THE WITNESS: So it's tab 1?

11 Q. (BY MR. POWERS) Yes.

12 A. All right.

13 Q. And take a look at the article. And take your time if
14 you need to, but I'd like for you to point out to the jury any
15 place in that article where it says that Stanford is or might
16 be a Ponzi scheme.

17 A. I don't see it.

18 Q. It doesn't say that, does it?

19 A. No.

20 Q. Nevertheless, after seeing the article --

21 MR. POWERS: And let's go back to the email, 109.

22 Q. (BY MR. POWERS) What you wrote to Ms. Dokken was, "I
23 hope it wasn't a Ponzi scheme, and hopefully the money is
24 somewhere." That's what you wrote.

25 A. Right.

1 MR. POWERS: Your Honor, pass the witness.

2 REDIRECT EXAMINATION

3 By Mr. Bryant:

4 Q. All right. Mr. Bell, part of your testimony on cross
5 examination pertained to the amounts of money that were in
6 various Magness accounts at Merrill Lynch at the end of
7 October. Do you remember that?

8 A. I do.

9 Q. And I'm not going to ask you to remember all of the
10 numbers precisely, and I'm not going to bring up each one of
11 those accounts. But as I recall, the total amount in those
12 accounts was about \$12.4 million, plus 3.8 million, plus 2.9
13 million, and then there was the 12 million that had come in
14 from Stanford. So that --

15 A. Thirty.

16 Q. Seems like we had, you know, 30 million or 40 million
17 total available in the Merrill Lynch accounts against which
18 there could be borrowing as of the end of October. And that
19 was after you recall that we'd seen \$50 million come into the
20 account from other banks. Was that mainly HSBC?

21 A. I can't recall if that was HSBC or U.S. Bank.

22 Q. Okay. And because of the difference in interest rates,
23 there was a suggestion that maybe the Magness entities should
24 have paid back money at that point to Stanford so that they
25 would eliminate borrowing at that 11 percent rate. Do you

1 recall that?

2 A. Sure.

3 Q. Well now, at the end of October 2008, did you know how
4 much more the stocks in those Magness accounts at Merrill
5 would go down?

6 A. No.

7 Q. And did the Magness folks have any way of knowing how
8 much more margin capability they would need to survive the
9 month of November?

10 A. No.

11 Q. Do you recall whether or not, in fact, those Liberty
12 stocks had stabilized and flattened out by the end of October?

13 A. I don't recall.

14 MR. BRYANT: Okay. Let's look at Exhibit DX 1. And
15 I don't know if this is possible, but let's blow it up.

16 Q. (BY MR. BRYANT) So looking at that, did those Liberty
17 stocks that were in the Merrill Lynch accounts for the Magness
18 entities suddenly plateau and start going back up or even
19 plateau at the end of October?

20 A. No.

21 Q. As a matter of fact, doesn't look like even they've
22 gotten halfway in that severe decline that you described.

23 A. Right.

24 Q. And so as a result of that, even though the Magness
25 entities may have had \$40 million worth of ability to borrow

1 at the end of October, were they in any position to pay any
2 money back on those Stanford loans to save a little bit of
3 interest?

4 A. Looking at November, no.

5 Q. And, in fact, did all or a large part of that borrowing
6 capacity get used up in November?

7 A. It did.

8 Q. Okay. There was also testimony regarding a portion of
9 your deposition that you gave about six months ago on July
10 11th, 2016, and that was from page 39 and 40 of your
11 deposition. And you describe your recollection of a time when
12 you told Ms. Dokken that you thought Stanford was too good to
13 be true and it was time to hit the exit door.

14 A. Right.

15 Q. And this is -- you're not sure when that precisely
16 occurred. Is that right?

17 MR. POWERS: Objection to leading, Your Honor.

18 THE COURT: Sustained.

19 Q. (BY MR. BRYANT) Was that your testimony that you weren't
20 precisely sure when that occurred?

21 A. I believe so.

22 Q. Okay. And so what we do know is that you testified it
23 was at a time when you personally felt she had too much of her
24 net worth allocated to Stanford CDs. Do you recall that?

25 A. I think I did say that.

1 Q. Okay. And now, Mr. Powers told you, and you agreed, that
2 she redeemed those CDs in January of 2008. Do you recall
3 that?

4 A. I heard that, yes.

5 Q. Okay. And so whenever that conversation happened, it
6 must have been at or about the time that she redeemed the CDs,
7 because she told you, yeah, I'm redeeming them. Is that
8 right?

9 MR. POWERS: Objection to the leading, Your Honor.

10 THE COURT: Sustained.

11 Q. (BY MR. BRYANT) Is it correct that you now think that at
12 the time that conversation happened -- what's your best
13 estimate of when it occurred?

14 A. Well, given that she had redeemed, and hearing my
15 testimony about it later, yeah, probably wasn't completely
16 clear on when it happened.

17 Q. Okay.

18 A. Because I didn't -- I didn't remember in my testimony
19 that she had redeemed prior to the Lehman collapse.

20 Q. Okay. So as you sit here today, are you still unsure as
21 to when that conversation occurred?

22 A. Yes.

23 MR. BRYANT: I pass the witness.

24 MR. POWERS: Your Honor, just briefly.

25 RECROSS EXAMINATION

1 By Mr. Powers:

2 Q. Mr. Bell, I just want to ask you about the testimony you
3 gave regarding November 2009 and all the credit getting used
4 up.

5 A. Okay.

6 Q. We just talked about that?

7 A. Yes.

8 Q. Let's look at Plaintiff's Exhibit 348. And this is
9 account 7010 in the name of GMAG, LLC for the month ending
10 November 28, 2008. Right?

11 A. Yes.

12 Q. And I think we turned to the third page. What's the
13 margin available credit in 7010 at the end of November 2008?

14 A. \$12 million.

15 Q. \$12,135,000.

16 A. Yes.

17 Q. So that one's not all used up, is it?

18 A. No, it's not.

19 MR. POWERS: Plaintiff's Exhibit 349, please.

20 Q. (BY MR. POWERS) This is the irrevocable trust account
21 0396.

22 A. Yes.

23 Q. And this is month end November 28, 2008. Correct?

24 A. Yes.

25 MR. POWERS: And the third page, please.

1 Q. (BY MR. POWERS) Margin available credit, if you would.

2 A. \$9,578,000.

3 Q. So, again, not all used up. Correct?

4 A. Correct.

5 MR. POWERS: Pass the witness. Or I guess that's
6 all for Mr. Bell. Thank you, Your Honor.

7 THE COURT: Thank you, sir. You may step down.

8 MR. BRYANT: Your Honor, I believe Mr. Bell has some
9 obligations tomorrow. Could he be excused from his subpoena?

10 THE COURT: Any objection?

11 MR. POWERS: No objection.

12 THE COURT: That's fine.

13 MR. PETRIE: Sorry, Your Honor. We have deposition
14 testimony from Juan Rodriguez-Tolentino.

15 JUAN RODRIGUEZ-TOLENTINO, BY VIDEO DEPOSITION,

16 Q. And I take it you understand that we're not here today
17 about the Receiver's lawsuit against you. We're instead here
18 about the Receiver's lawsuit against Mr. Luis Giusti. You
19 understand that?

20 A. Yes.

21 Q. So starting in 2001, what was your role at the Stanford
22 entities?

23 A. 2001 I was the chief operating officer for Stanford
24 International Bank.

25 Q. And, just briefly, could you explain to the jury what it

1 is that a chief operating officer for Stanford International
2 Bank does?

3 A. I handled the operations of the bank on a day-to-day
4 basis at its headquarters Antigua, West Indies.

5 Q. And did you actually live in Antigua at that time?

6 A. I did.

7 Q. And what aspects of the operations were you in particular
8 in charge of?

9 A. The operations that were at the headquarters building,
10 customer service, operations, mail, the general accounting for
11 Antigua.

12 Q. Were there any other --

13 A. HR. HR.

14 Q. About how many people worked at the bank at that time?

15 A. 2001, I'm guessing probably around 80.

16 Q. And were those all people that worked at the bank in
17 Antigua, that is, in the bank building in Antigua, the 80 that
18 you mentioned?

19 A. Yes. Yes, sir.

20 Q. And did SIBL have any other employees at any locations
21 besides the bank in Antigua at that time?

22 A. Not that I recall.

23 Q. Did you have any other positions with any Stanford
24 entities from 2001 until February of 2009?

25 A. Yes. Yes.

1 Q. And what was the next position after chief operating
2 officer?

3 A. I was appointed president of the bank.

4 Q. And when was that?

5 A. Probably around 2005. I don't recall a specific date.
6 And I was also the regional director in 2008, actually, for
7 Stanford.

8 Q. What entity were you the regional director for?

9 A. I was under Stanford Financial, but there was a
10 structural change to put the Caribbean as a, quote unquote,
11 region, so that several managers would come together by
12 geographical area.

13 Q. When you became regional director, did you still have any
14 role or function within Stanford International Bank?

15 A. Yes. I was still the president of the bank.

16 Q. Okay. When you became president, as opposed to chief
17 operating officer, what changed about your duties and
18 functions for the organization?

19 A. Really not much. I kept the same responsibilities I had
20 before.

21 Q. Can you think of anything substantial that you took on
22 that you didn't already have as chief operating officer in
23 terms of responsibilities?

24 A. Not really.

25 Q. And did you continue to reside in Antigua from 2005 on to

1 February 2009?

2 A. Yes.

3 Q. When was the first time you heard of any SEC
4 investigation or subpoena of any Stanford entity?

5 A. Around February 2009.

6 Q. You didn't hear about any SEC subpoena in 2005?

7 A. No, sir.

8 Q. When was the first time you heard that Stanford either
9 was or might be operating a Ponzi scheme?

10 Let me rephrase it. When was the first time you heard
11 the allegation that any Stanford entity was operating a Ponzi
12 scheme?

13 A. February 2009.

14 Q. Was it -- was it common for financial advisors to reach
15 out directly to you with questions about Stanford
16 International Bank?

17 A. Not common.

18 Q. And why does Mr. Giusti -- Luis Giusti, Jr. reaching out
19 directly to you as opposed to going to some person at a lower
20 level of responsibility?

21 MR. STANLEY: Objection; form.

22 A. I can only give you a general example. I mean, if they
23 needed a document, a statement, an account statement, and
24 they've gone through customer service and the manager and the
25 VP and it's -- they're not getting the answer, they would have

1 come to me to make it happen. So they're just escalating
2 primarily customer service issues.

3 Q. And they're doing that because they're not getting the
4 help they need from somebody at a lower level in the
5 hierarchy?

6 MR. STANLEY: Objection; form.

7 Q. Is that your understanding?

8 A. Yes, pretty much.

9 Q. Is there any other particular reason why Luis Giusti, Jr.
10 had access to you specifically, whereas other financial
11 advisors may not have had such access?

12 A. Every financial advisor had access to me. They had my
13 direct number, my cell number, because customer service was a
14 key. So if there was a customer service issue that needed to
15 be escalated, they could find me.

16 Q. And is Exhibit 7 a true and correct copy of the cover
17 page of the senior investment officer resource manual and
18 excerpts from that manual?

19 A. Yes, sir.

20 Q. When was the first time that the position of senior
21 investment officer came into existence?

22 A. I don't recall specifically the date.

23 Q. Was it around the middle 2000s? Is that a fair estimate?

24 A. Middle -- middle -- Well, middle to late 2000s, I would
25 say.

1 Q. And is it your understanding that Ms. Laura Holt's title,
2 at least from 2005 forward, was chief investment officer?

3 A. I know that her title changed, yes, to chief investment
4 officer. I don't recall when.

5 Q. Was she the chief investment officer of Stanford
6 International Bank?

7 A. She was for all the companies.

8 Q. How did the role of senior investment officer relate to
9 her role as chief investment officer?

10 A. The senior investment officer would report to her.

11 Q. And who did she report to?

12 A. James Davis.

13 Q. And did Mr. James Davis report directly to Mr. Allen
14 Stanford?

15 A. Yes.

16 Q. What was your role in that hierarchy between senior
17 investment officer up to Laura Holt to Mr. Davis to
18 Mr. Stanford? Were you anywhere in that hierarchy?

19 A. I reported directly to Mr. Stanford.

20 Q. But you didn't have any role in the investment side of
21 Stanford International Bank?

22 A. No, sir. I mean, I had administrative supervision over
23 the SIO in terms of, you know, his -- whether or not he was in
24 office or not, but not his investment activities.

25 Q. And what was the purpose of creating the role of senior

1 investment officer?

2 A. The CFO wanted to have a more local presence of the
3 investment function in Antigua and someone who could interact
4 with financial advisors and answer questions as necessary.

5 Q. Was it -- did the senior investment officer have any role
6 in setting investment policy?

7 A. Not policy. Not that I'm aware of, no.

8 Q. Was the setting of policy delegated to a committee of the
9 board?

10 A. There was an investment committee of the board, yes.

11 Q. And who was on the investment committee of the board?

12 A. James Stanford, Allen Stanford, James Davis, and I
13 believe Sir Courtney Blackman was on the committee. And Laura
14 Pendergest-Holt would interact with them.

15 Q. Was she on the committee herself?

16 A. I don't know that she was a board -- a committee member.
17 Because she was not a board member. She might have been.

18 Q. Could you please explain to the jury who Mr. James
19 Stanford is?

20 A. James Stanford was, yes, Allen Stanford's father, and
21 former entrepreneur out of Mexia, Texas.

22 Q. And who is Mr. Courtney Blackman?

23 A. Sir Courtney Blackman is a Ph.D. in economics and a
24 former governor of the Central Bank of Barbados.

25 Q. As far as you are aware, are those the four -- the four

1 individuals you mentioned, were they on the investment
2 committee of the Stanford International Bank in 2005 and 2006?

3 A. Yes, I believe so.

4 Q. Could you tell me the circumstances of how you learned
5 about the bank fraud? Where were you and, if you can recall,
6 when was that?

7 A. Well, in February of 2009, there were some meetings held
8 in Miami in preparation to come before the SEC. And in those
9 meetings Mr. Davis, James Davis, presented a financial
10 statement on the screen that was not in line for -- with
11 everything that we had seen -- I had seen over my tenure at
12 the bank.

13 Q. Okay.

14 A. And that was the first indication that there was
15 something wrong.

16 Q. All right. Let me break that down a little bit. Do you
17 recall that the meeting in Miami was sometime during the first
18 week of February?

19 A. The first week of February 2009.

20 Q. And at that meeting, or in attending that meeting, was
21 that when you first became aware of the SEC investigation that
22 you were asked about earlier today?

23 A. That's correct, sir.

24 Q. Prior to that, did you receive any communications or
25 information that told you there was an SEC investigation going

1 on with the company?

2 A. There was a late January meeting indicating to us that we
3 would meet in February to prepare to present to the SEC.

4 Q. Okay. Now, the late January meeting, was that, then, the
5 first time that you understood that the SEC had some questions
6 about Stanford?

7 A. Yes. Well, it was the first time that they were talking
8 about the SEC having questions about the CD product.

9 Q. Okay. Now, you had -- by that point. Let's see.
10 1990 -- of 2009 you had been with the bank in one fashion or
11 another for roughly --

12 A. It was coming up on 17 years.

13 Q. Seventeen years.

14 A. Yes, sir.

15 Q. And in the 17 years that you had worked at the bank, what
16 was your understanding of what the CD product was?

17 A. Well, the CD product was what the name says--a
18 certificate of deposit where the clients would place their
19 money and get a set rate of return for it.

20 Q. Okay. And up until this January of 2009 meeting, had
21 anyone suggested to you that the United States Security and
22 Exchange Commission had any concerns or questions regarding
23 the CD at your bank?

24 A. Not concerns. Questions that -- we have had questions in
25 the past, but in the course of the operation.

1 Q. The questions that you had in the past, were those from
2 regulators?

3 A. Yes. They could come from regulators. The bank sold the
4 CD product in many countries, and in the U.S. it was sold
5 through a Reg D filing, so it -- I mean, there was a disclose
6 there that the Government had in their hands. So from my
7 standpoint it's asking questions to clarify.

8 Q. Okay. Was there anything that struck you as unusual
9 about the questions that had been asked by regulators over the
10 years?

11 A. No.

12 Q. Were they the type of questions that you would expect
13 regulators to ask in the course of their oversight of the
14 bank?

15 A. Yes.

16 Q. And so they would wire it to those banks we've been
17 discussing. Where SIB maintained an account, it would go into
18 the SIB account at Toronto Dominion. Right?

19 A. Right.

20 Q. Okay. Mr. Rodriguez-Tolentino, just before the break we
21 were talking about this Miami meeting in which various heads
22 of different aspects of the company were brought together.
23 And in the course of this meeting, did you learn that one of
24 the things the SEC wanted to know about was how the money was
25 invested?

1 A. Yes.

2 Q. During that meeting, did Mr. Davis, as the chief
3 financial officer, make a presentation to let you and others
4 know how many was invested?

5 A. Yes, he did.

6 Q. Okay. Could you describe for me what Mr. Davis showed
7 you and what your reaction was when you saw it?

8 A. Well, he put a PowerPoint presentation on the screen
9 showing the financials and the investment portfolio, and it
10 did not conform to anything I had seen before. It included
11 investments in real estate, other investments that I couldn't
12 recognize in terms of categories. And it was just a shock.

13 Q. How did you feel when you saw it?

14 A. Awful.

15 Q. Why?

16 A. Because that's not what we represented to clients.

17 Can we take a break?

18 Q. When Mr. Davis put his presentation up, was it a pie
19 chart?

20 A. It was a pie chart, and at the bottom there was a
21 break-down of names and amounts.

22 Q. Of how the money was invested?

23 A. Of line items and categories where the money was at.

24 Q. Did you have a sick feeling in your stomach when you saw
25 that?

1 A. I stood up and asked them to clarify. I told them that
2 if that was true, I would not be part of the presentation with
3 the SEC. They needed to clarify what was on the screen; they
4 meaning be Mr. Stanford and Mr. Davis.

5 Q. Did anyone ask Mr. Davis how the investments were made in
6 the way he was showing you when, in fact, they'd been
7 represented differently to investors?

8 A. I don't recall the specific -- anyone asking the specific
9 question, but there was a lot of upset people and crying
10 people in that meeting.

11 Q. What was Danny Bogar's reaction?

12 A. Oh, Danny broke out. Danny started crying. Danny Bogar
13 started crying in the meeting.

14 Q. To you did it appear that this was new information to
15 him?

16 A. It would appear that way. Everybody -- I mean, my
17 feeling is we were -- I was shocked to see what was on the
18 screen.

19 Q. What was Lena Stinson's reaction?

20 A. It was disbelief, pretty much.

21 Q. And what about Mauricio Alvarado?

22 A. Mauricio seemed shocked. But, I mean, he -- I don't know
23 that he reacted the same way everyone else did.

24 Q. Okay. Did Mr. Davis offer any explanation as to how the
25 financial records had been kept?

1 A. No, he didn't. He just said that that was it, what he
2 was showing on the screen, and it is what it is, and -- which
3 wasn't, because those were not the numbers in our financial
4 reports.

5 Q. And during this Miami meeting, was that the first time
6 you'd learned this information that the numbers were
7 inaccurate in all the literature you had passed out?

8 A. Correct.

9 Q. And I'm not saying you personally, but literature or --
10 as investors came to the bank and presentations were made.

11 A. Information on our brochures, on our filings under Reg D,
12 and everything else we had done over the years.

13 Q. Now, you've probably asked yourself this over the years.
14 How did this get by you as the president of the bank? Were
15 there things that validated the whole process in your mind up
16 to that point in February?

17 A. Well, you had -- you had annual audits, you had the
18 Financial Services Regulatory Commission visiting you, you had
19 the SEC granting licenses to affiliate offices to continue
20 opening, you had the company opening offices in Zurich, in
21 Panama, all of them regulated, in Venezuela a commercial bank,
22 and so, you know, it never occurred to me that there was
23 something amiss. Well, we -- the company was growing, and
24 then we were right in front of all the regulatory bodies
25 around the world.

1 Q. And besides regulatory bodies, was -- were there audits
2 done on the company?

3 A. Yes. Well, the annual -- the annual audit for the -- for
4 the bank was conducted, and then every other entity around the
5 world had their own set of auditors.

6 Q. There were dozens of operating companies around the
7 world, were there not?

8 A. Correct.

9 Q. To the best of your knowledge, were they also audited and
10 did they maintain books?

11 A. Yes.

12 Q. The broker/dealer, Stanford Group Company, or SGC, was
13 subject to the SEC in the United States, was it not?

14 A. Yes.

15 Q. And was there a public accounting firm that was in charge
16 of auditing SGC?

17 A. I believe so. I'm not -- I don't recall the name, but I
18 believe so.

19 Q. Okay. Mr. Powers mentioned a private company that was
20 involved with SGC named Pershing. Do you remember that?

21 A. Uh-huh.

22 Q. What was Pershing's role with SGC?

23 A. Pershing was their clearing agent.

24 Q. All right. Did Pershing come to the bank as part of
25 their due diligence process in getting involved with SGC?

1 A. Yes, they did.

2 Q. Do you remember that when they came to Antigua?

3 A. Yes, I do.

4 Q. Did you believe at the time that Pershing was a very
5 large organization?

6 A. Yeah, they were.

7 Q. Large clearing firm?

8 A. I believe so.

9 Q. Okay. And do you remember who came to the bank?

10 A. I don't remember specifically. A couple of people. I
11 know Danny Bogar was there when they went.

12 Q. Okay. Well, we're going to visit with Danny soon. We'll
13 ask him more details about that.

14 Do you remember giving access to any information about
15 the bank to Pershing's as part of their due diligence?

16 A. Yeah. We gave them a presentation. We gave them copies
17 of financials, I believe.

18 Q. Was it validating to you that a large firm like Pershing
19 would spend a lot of time doing due diligence and then getting
20 business with Stanford Group Company?

21 A. Yes, but it was not unusual. I mean, we had
22 correspondent banks come through periodically and other
23 entities just come see us.

24 Q. Did Toronto Dominion come out and visit?

25 A. Toronto Dominion came out and visit. CFSB came out and

1 visit. Trustmark came out and visit. Southwest Bank of Texas
2 came out and visit at different times.

3 Q. Did that give you comfort that companies that are bigger
4 and more powerful than you would take a look at the
5 organization and continue to do business with it?

6 A. Yes.

7 Q. All right.

8 A. Yes.

9 Q. Let me ask you about the returns. Okay? There were some
10 questions about the returns earlier.

11 Did you believe that the returns being offered on the CD
12 were reasonable?

13 A. They were reasonable based on the -- I mean, based on the
14 disclosures and the financials that we had, they were
15 reasonable.

16 Q. Let me ask it a little more pointedly. There has been
17 suggestions that the returns were too good to be true, which
18 we've heard in hindsight. Let me try to get your head back as
19 to where it was when you were the president of the bank.

20 A. Uh-huh.

21 Q. The returns that your bank was offering investors, did
22 you believe that they were too good to be true back at the
23 relevant time?

24 A. No. No, I didn't.

25 Q. Okay. How in your mind was it possible that the bank

1 could offer returns that were more than in the U.S. but
2 somewhat less than in other Latin American countries?

3 A. Well, the comparison to the U.S. always came to the
4 table, and they were two completely different banking systems.
5 I mean, when you're looking at a commercial bank in the U.S.
6 and their make-up and where they invest and the prevailing
7 interest rates and the overhead and the currency in which they
8 invest and all that's completely different to what SIB had in
9 its investment policy and then, in turn, on the financials. I
10 mean, you could get returns around the world that were
11 completely different and higher than those in the United
12 States.

13 Q. How did the types of returns your bank offered compare to
14 other Latin American companies?

15 A. Well, they were lower than Latin America.

16 Q. All right. Now, when you talk about how the process
17 works and what the U.S. offers, you have some background in
18 banking in the United States, do you not?

19 A. Yes, I do.

20 Q. What was your job before coming to work for Stanford?

21 A. I was doing some sales work. Before I came to Stanford I
22 was doing sales work for Technology Management Resources. But
23 prior to that I was a banker with Banco Nacional. I was a
24 cashier for the bank. Cashier, not as in teller, but the
25 cashier, vice president of operations and cashier. I worked

1 for Bank of Boston, and I worked for the Bank of Nova Scotia.

2 Q. How many years did you spend working in the banking
3 business?

4 A. I started in '81.

5 Q. Okay. And so with the exception of the one company you
6 mentioned that wasn't --

7 A. Technology Management.

8 Q. Technology Management. You had about a decade of banking
9 experience.

10 A. Banking experience.

11 Q. All right. So you were familiar with what U.S. CD
12 products were?

13 A. Absolutely.

14 Q. And Bank of Nova Scotia is a very large international
15 bank, isn't it?

16 A. Correct.

17 Q. And so you are also familiar with how international bank
18 products functioned?

19 A. Yes, sir.

20 Q. All right. So let's go back, now, to your time at
21 Stanford.

22 As the president, was there anything unusual in your
23 mind, given your background, about a CD sold through an
24 offshore bank that was two points -- two percentage points
25 higher than a U.S. CD?

1 A. No, sir.

2 Q. Okay. And as best you can, just explain to the jury why
3 that did not strike you as unusual.

4 A. Well, the -- when you compare the CD to the domestic U.S.
5 rate, you're comparing, to a certain degree, apples and
6 oranges, because the international CD program, not only what
7 was done at Stanford but at other banks, if you were investing
8 in the Cayman Islands or the Isle of Man or the Channel
9 Islands, any of these--even Switzerland--any of these
10 jurisdictions, their product mix on the other side of the
11 investment, on the other side of the CD -- on the one side you
12 have the account the money, that the client gives you, and
13 then the bank will turn around and do something with it. In
14 commercial banking in the U.S. it's typically loans, real
15 estate loans or commercial loans, and what they share with the
16 client in terms of a spread is minimal. Whereas on the
17 international side of the business, if you go to any of these
18 jurisdictions, the bank has more leeway to invest, as long as
19 they disclose to their clients, in different types of products
20 and get a higher return and share a higher return with their
21 clients. So no, it would not have been strange.

22 Q. All right. Now, in hindsight we believe that it wasn't
23 being invested as -- you were told that in that meeting it
24 wasn't being invested the way you thought it was. Correct?

25 A. Correct.

1 Q. But your belief while you were the president was it was
2 invested in a certain way and it could reasonably generate the
3 returns that your bank was offering. Is that fair?

4 A. That's correct.

5 Q. That loan was not cash collateralized was it?

6 A. Well, sir, that loan was never disclosed, so if --

7 THE COURT: We're getting towards break time, so
8 let's pause and we'll finish up after the break.

9 Let's go ahead and let you-all take about a 20-minute
10 break, and we'll see back right around 3:30.

11 (Whereupon, the jury left the courtroom.)

12 THE COURT: I want to give you Espy back.

13 I had a question about one objection that I believe was
14 made by the Magness parties to several different designations,
15 and it typically looked to me like it was directed primarily
16 at the cross designations, and it said FRE 106, fairness and
17 completeness. And I'm not entirely sure what you-all meant by
18 that.

19 MR. PETRIE: I'd be happy --

20 THE COURT: And if you want to look at it and answer
21 that question at the end of the break, I'm happy for you to do
22 that.

23 MR. PETRIE: I can do that, or I can discuss with
24 you conceptually. It's whatever you prefer.

25 THE COURT: Right now would be preferable.

1 MR. PETRIE: Okay. What we did when we put the FRE
2 106 objection was to say that there are other parts of the
3 testimony that need to be read with it, and we just designated
4 the other parts. The ones that remained open, so-to-speak,
5 that we tabbed for you-all, my recollection--and I, of course,
6 would invite my colleagues across the aisle to join in--of
7 that was that then within the bit that we designated there
8 were objections to that, so that --

9 A lot of these we resolved by us saying you ought to add
10 this, and the other side agreeing and vice versa.

11 THE COURT: Okay.

12 MR. PETRIE: But if there was not an agreement on
13 the addition, we left in the FRE 106 piece.

14 THE COURT: For example, there would be a block
15 designated by you, and then a gap, and a block designated by
16 you, and they would have come in and cross-designated the gap
17 part, and then you would object--FRE 106, fairness and
18 completeness.

19 MR. PETRIE: A little bit different than that, if I
20 may. They would designate a piece. We would say you need to
21 designate more, and add that piece, but in the addition there
22 would then be an objection. And because the objection was in
23 the addition, we left in the FRE 106. So --

24 THE COURT: For example, and this is just a random
25 example--there were quite a few--we've got blue, we've got

1 blue, then they come in and cross-designate green, and you've
2 got objection, FRE 106, fairness and completeness, and there's
3 no objection to anything in the surrounding blue.

4 MR. PETRIE: Then I had better look at those, Your
5 Honor. I'm sorry. I apologize.

6 THE COURT: Okay. Based on my read, I've overruled
7 most all of -- not just those, but most all of the objections,
8 but there were a few in there that I sustained.

9 Just a curiosity question -- Well, never mind. I don't
10 need to scratch that itch.

11 Let me let you-all go have a break.

12 Is there anything else we need to take up right now?

13 MR. SADLER: No, sir.

14 MR. PETRIE: No. Thank you.

15 THE COURT: All right. We'll see you-all at 3:30.

16 (Brief recess.)

17 THE COURT: All set?

18 MR. PETRIE: Yes, sir.

19 MR. SADLER: Yes, sir.

20 (Whereupon, the jury entered the courtroom.)

21 THE COURT: Be seated.

22 Let's proceed.

23 JUAN RODRIGUEZ-TOLENTINO, BY VIDEOTAPE DEPOSITION,

24 Q. That loan was not cash collateralized, was it?

25 A. Well, sir, that loan was never disclosed. So if you're

1 mentioning a loan that was disclosed on a -- on a wall and
2 never explained?

3 Q. Yes.

4 A. Then that statement that you are making would be true.
5 That was never disclosed to anybody at the bank.

6 Q. It was not disclosed to anybody in the public or the
7 bank.

8 A. To anybody in the bank. To me in particularly as
9 president of the bank.

10 Q. While you were the president of the bank, were you privy
11 to the account statements for SIB and Toronto Dominion?

12 A. No, I did not review the account statements for Toronto
13 Dominion or any other correspondence.

14 Q. So you were not aware that money was flowing out of SIB
15 cash accounts in the amounts of hundreds of millions of
16 dollars to other Stanford entities.

17 A. No, sir.

18 Q. And if SIB was sending money to other Stanford entities
19 who then lent that money to the government of Antigua and
20 other entities, you would have no knowledge of that.

21 A. No, sir.

22 Q. And at some point, I believe you testified earlier it was
23 2005, you became president of the bank. Is that right?

24 A. Yes. I may have the dates off, but yes.

25 Q. Roughly. How did your job responsibilities change when

1 you became president?

2 A. Not much. I mean, I then was in charge of HR and also
3 had accounting report to me.

4 Q. Okay. Other than being in charge of HR and accounting
5 and other operational aspects, what other kinds of things did
6 you do as part of your job as president of Stanford
7 International Bank?

8 A. Well, I would -- I would be -- I would receive clients
9 coming to the bank to visit, clients and prospects.

10 Q. And what do you mean, receive them?

11 A. Well, they would come to visit the bank in Antigua, so we
12 would give them a tour of the bank, of the island, the
13 operation, talk to them about the -- the operations of the
14 bank.

15 Q. Now, in all of what we've just described, including when
16 you were assistant operations manager back starting in 1992,
17 when you were director of corporate security, when you were
18 chief operating officer, during that entire time period you
19 did not have any input into the investments of the Stanford
20 International Bank CD portfolio. Correct?

21 A. None whatsoever.

22 Q. Okay. And that did not change when you became president.
23 Correct?

24 A. That's correct.

25 Q. So the entire period of time that you were president at

1 Stanford International Bank, you had no input into the
2 investments in the CD portfolio.

3 A. That's correct.

4 Q. Though you didn't have input, did you have visibility
5 into what the investments were of the CD portfolio?

6 A. Not a detailed level. We only got summaries from
7 investment side.

8 Q. So does it strike you as peculiar that the president of
9 the bank has no say in how the CD proceeds are invested that
10 come from its product?

11 A. Not in the -- the way that Stanford was structured,
12 organized. The president of the bank was -- I was running the
13 operational side of the house, not the investment side of the
14 house.

15 Q. Had you worked anywhere else where you observed a similar
16 circumstance where the top officer of a bank did not have
17 knowledge or input into how the bank's assets were invested?

18 A. No. I had never worked for an offshore bank before, sir.

19 Q. Have you ever worked for any bank before?

20 A. Yes, I worked for commercial banks.

21 Q. Okay.

22 A. At branch level.

23 Q. All right. So tell us about your experience in working
24 for commercial banks before you worked for Stanford.

25 A. I worked for a small community bank in the operational

1 and controllership areas, and I worked for the Bank of Boston
2 as the operations manager. And I worked for Bank of Nova
3 Scotia, which is where I started my career. And I worked from
4 branch level, was a management trainee, and I was an
5 operations manager for several branches.

6 Q. And in any of those positions, were you involved in how
7 those banks invested their assets?

8 A. No, sir.

9 Q. Were there other people at those banks who were in charge
10 of those things?

11 A. Yes, sir.

12 Q. And did the people at those banks report to the top
13 officers of the bank?

14 A. Yes, they would.

15 Q. Okay. Did anybody who was involved in the investment of
16 the SIB CD portfolio report to you as the top officer of
17 Stanford International Bank?

18 A. Michael Zarich as SIO briefly.

19 Q. Okay.

20 A. Physically in the building.

21 Q. So he reported to you, and what does that mean to you?

22 A. That he was there, that he was on island, in the office,
23 but I didn't have day-to-day reporting from him.

24 Q. Okay. Did you have input into how he did his job?

25 A. No.

1 Q. Did you have any supervisory responsibilities over him?

2 A. Basically confirm that he was there.

3 Q. Okay. But on a substantive level did you have any
4 supervisory responsibilities over Mr. Zarich?

5 A. No, sir.

6 Q. So as the president of the bank, you had no one reporting
7 to you who was involved with the investments on the CD
8 portfolio.

9 A. That's correct.

10 Q. And that did not strike you as peculiar because of how
11 Stanford functioned.

12 A. That's correct.

13 Q. So you talked about receiving clients. Let's talk about
14 that a little bit more. When you would give clients or
15 prospective clients tours of the bank facilities, what kind of
16 things were you talking to them about?

17 A. We would talk to them about the jurisdiction, Antigua as
18 a country, the -- the legal framework under which the bank
19 operated, the compliance, and how the bank invested its money
20 at high level. I mean, just sort of tiers I, II, III, what
21 the investment policy was. Nothing that wasn't in published
22 material.

23 And clients or prospects would get a tour of the facility
24 and tour the island, dinner, and they would be on their way.

25 Q. Other than yourself, who was involved in giving those

1 tours?

2 A. The operations senior VP, Miguel Pacheco, would cover
3 part of it. Michael Zarich would cover part of it. Pedro
4 Rodriguez would cover compliance. I mean, there was a team
5 of -- of officers at the bank.

6 Q. In the tours that you gave, did you talk with customers
7 or prospective customers about private equity investments that
8 the bank was making?

9 A. I don't think so. I don't remember that the question was
10 posed.

11 Q. Okay. Well, did you volunteer that the bank was
12 investing in private equity?

13 A. No, sir. I simply stated the policy.

14 Q. Okay. Which I presume it's the same, but in terms of the
15 policy that you communicated to customers about SIB's
16 investment philosophy, what did you tell them?

17 A. Tiers I, II, III that we've discussed earlier, cash and
18 equivalence, equities and the long-term with stocks, bonds,
19 and currencies, et cetera.

20 Q. Tell us how the loans worked.

21 A. Well, the bank would lend up to 80 percent of the value
22 of a CD that was placed on the -- at the bank, and we would
23 charge 200 basis points over the CD rate as an interest rate
24 for it.

25 Q. And the collateral that -- that the bank relied on was

1 the actual CD. Correct?

2 A. That's correct.

3 Q. Did Antiguan law require the bank to be truthful in its
4 communications about the CDs?

5 A. I would say yes. I mean, not expressly, but yes.

6 Q. All right. And did Antiguan law require the bank to be
7 truthful about what it communicated to customers about the
8 investment portfolio?

9 A. Sure.

10 Q. At least as regards to the investment portfolio, how did
11 you make sure that what you were communicating to customers
12 was truthful?

13 A. I don't think I had a way of communicating -- I mean, of
14 making sure other than the fact that I had external auditors
15 and I had the regulators come in once a year.

16 Q. Okay. And the external auditors, who were they?

17 A. C.A.S. Hewlett and Associates.

18 Q. Okay. And who did you interact with there?

19 A. Mr. Hewlett from time to time, but Mr. Davis managed the
20 relationship.

21 Q. Okay. So did the Hewlett folks actually come on site and
22 perform audits?

23 A. They would come on site, and they would go to Memphis.

24 Q. Okay. As part of that audit process, were you involved
25 in transmitting information to Hewlett?

1 A. Operational information, yes.

2 Q. Okay. Were you involved in transmitting any investment
3 portfolio information to Hewlett?

4 A. No, sir.

5 Q. So, again, all of the information about investments was
6 flowing from Mr. Davis' office and you never saw that as
7 president of the bank.

8 A. That is correct.

9 Q. And you did not think that was peculiar.

10 A. Not at the time, sir.

11 Q. So the investment of those proceeds, those decisions --

12 A. Uh-huh.

13 Q. -- that wasn't on your radar.

14 A. It was not in my purview.

15 Q. It was not in your purview. But at the same time, you
16 were, in fact, making representations to customers about what
17 was contained in that investment portfolio. Right?

18 A. I was communicating to them what the board of directors
19 had approved, what the regulators had seen, what we had filed
20 on Reg D filings, what the company filed in every single
21 country it operated. I had no reason to believe that what
22 represented was true. So I was basically going through the
23 stated policy for the company. I had no reason to believe
24 that any of this was not true.

25 Q. So you were reciting policies that were given to you by

1 others, and you never once even asked to see the support for
2 the underlying investment portfolio. Correct?

3 A. No. And there was no reason for me to doubt, given that
4 we had auditors and bank regulators and other countries,
5 including ours in the USA, approving what we were doing.

6 Q. Mr. Rodriguez, at your time -- during your time at
7 Stanford International Bank, was there ever a time when you
8 assisted in the preparation of a letter to be signed by Leroy
9 King to any regulatory agency?

10 A. Yes.

11 Q. Okay. Tell me about that.

12 A. There was a time when Mr. King requested information
13 regarding the trust company actually, not the bank, and a
14 draft was prepared by our legal counsel in Houston and sent to
15 him with some general information that he eventually used.

16 Q. Okay. Do you recall what regulatory agency that was to?

17 A. I believe it was the State of Louisiana.

18 Q. Okay. And was that a -- was there a draft of a letter
19 that you commented on?

20 A. No. I received the request, I sent it to Houston, they
21 sent it back, and it went to him.

22 Q. Okay. Any other times that you can recall?

23 A. No, sir.

24 Q. All right. Take a look at Exhibit No. 11. Mr.
25 Rodriguez, can you describe what this Exhibit No. 11 is?

1 A. It's a -- it's an exchange of emails from Mauricio
2 Alvarado -- between Mauricio Alvarado, Yolanda, and myself.

3 Q. And remind us, Mauricio Alvarado was who?

4 A. Legal counsel.

5 Q. And Yolanda Suarez was who?

6 A. She was chief of staff or lead counsel. I don't know
7 what she was at that date.

8 Q. And what is this email exchange about?

9 A. A letter to the Eastern Caribbean Central Bank, a draft.

10 Q. Okay. What is the Eastern Caribbean Central Bank?

11 A. The supervisory entity that looked over Bank of
12 Antigua -- well, commercial banks in the Caribbean, the
13 eastern Caribbean and Antigua.

14 Q. And Bank of Antigua was another bank owned by Mr.
15 Stanford. Correct?

16 A. That is correct.

17 Q. And it was part of the Stanford Financial Group of
18 companies?

19 A. That is correct.

20 Q. And in what it appears to attach is a draft of a letter
21 with a signature line for Leroy King. Correct?

22 A. That is correct.

23 Q. And Leroy King was with the FSRC?

24 A. That is correct.

25 Q. Down at the bottom of the first page, it's an email from

1 Mauricio Alvarado saying --

2 A. Uh-huh.

3 Q. -- this to you and Yolanda Suarez, saying, "Please see
4 attached document --"

5 A. Uh-huh.

6 Q. "-- and my proposed draft response. Please let me know
7 what you think. I would appreciate your response ASAP as I am
8 supposed to provide our proposed draft later tonight."

9 Did I read that right?

10 A. Yes, you did.

11 Q. Do you remember this email exchange?

12 A. I don't.

13 Q. Okay. You have no recollection whatsoever.

14 A. I don't -- I don't recall this email exchange.

15 Q. Okay. And the next email in the chain is directed to you
16 from Mr. Alvarado --

17 A. Uh-huh.

18 Q. -- and it says, "Have you had a chance to review the
19 documents per my email below?"

20 A. Right.

21 Q. And then another email where Mr. Alvarado is forwarding
22 it to you and Ms. Suarez, saying, "I'm attaching the latest
23 version of the document containing some further changes that I
24 have incorporated. Please let me know what you think.

25 Thanks."

1 And then what is -- what's the next email on the chain?

2 It's an email from you to Mr. Alvarado --

3 A. Right.

4 Q. -- and Yolanda Suarez. Correct?

5 A. That's correct.

6 Q. And what -- what does that have in it?

7 A. It has a sentence.

8 Q. Okay. Read that for us.

9 A. "We are supportive and in agreement with the need for
10 effective supervision of affiliated companies of financial
11 institutions. We believe your agency should place reliance in
12 the result of our continued monitoring and examination of
13 entities under our supervision."

14 Q. Does reading that refresh your recollection at all about
15 what this is about?

16 A. It still doesn't.

17 Q. Okay. Was this supposed to be a comment or revision to
18 the letter?

19 A. I don't recall the context. And I see the letter, but I
20 don't recall the context or how this all started.

21 Q. Okay. Well, this -- so this -- but this was something
22 that you were emailing to them. Correct?

23 A. To Mauricio.

24 Q. Right. Let's -- let's look at the attachment for a
25 moment, if we could, just so we're clear on what it is. It

1 says "draft" on it. It appears to be a draft letter.

2 MR. HASBUN: I'm just going to make an objection for
3 the record. This email, this Exhibit 11, the email, the
4 attachment that's to -- to this exhibit, I don't know if
5 there's any basis for knowing that it's actually related to
6 this email.

7 Q. All right. So take a look at the attachment. It's a
8 July 31st, 2006 draft letter. Correct?

9 A. Yes.

10 Q. I'm sorry. Did you answer? I didn't hear.

11 A. Yes. You said July 31, 2006.

12 Q. Yes, sir.

13 A. Yes.

14 Q. And it's addressed to Mr. Niguel Streete. Right?

15 A. Uh-huh.

16 Q. And says here that he's the director, bank supervision
17 department of Eastern Caribbean Central Bank. Right?

18 A. Correct.

19 Q. And the first line says, "We are in receipt of your
20 letter dated July 11, 2006," meaning I guess the Eastern
21 Caribbean Central Bank's letter.

22 A. Uh-huh.

23 Q. And it goes on to discuss, you know, what the content of
24 it was. And then at the very end, there's a signature line
25 for Leroy King. Correct?

1 A. That's correct.

2 Q. Okay. Have you had a chance to review the content of
3 this letter, this draft letter?

4 A. Yes, I have.

5 Q. Okay. And after reviewing that content, do you have any
6 further recollection of what this was about?

7 A. No, sir.

8 Q. Let's take a look at what has been marked as Exhibit No.
9 12.

10 A. Do you have a stapler?

11 Q. This appears, does it not, to be a different draft of
12 basically the same letter to Mr. Niguel Streete from Leroy
13 King? Correct?

14 A. Yes.

15 Q. Okay. And at the very end --

16 A. Uh-huh.

17 Q. -- if you would, read the last paragraph.

18 A. "Nonetheless, we are supportive and in agreement with the
19 need for effective supervision of affiliated companies of
20 financial institutions. We, however, believe your agency
21 should place reliance on the result of our continued
22 monitoring and examination of entities under our supervision."

23 Q. Okay. So with -- if you look back at the top email in
24 Exhibit 11 --

25 A. Uh-huh.

1 Q. -- which was your email --

2 A. To Mauricio.

3 Q. -- the content of the new paragraph in the draft letter
4 in Exhibit 12 matches almost exactly what you suggested in
5 your email. Correct?

6 A. Yes.

7 Q. So it's fair to say that, in this instance, you were
8 assisting in drafting letters on behalf of Leroy King to other
9 regulatory agencies. Correct?

10 Mr. Hasbun: Objection, form.

11 A. No. I assisted. It seems like they asked for my
12 opinion, and I provided that to Yolanda and to Mauricio.

13 Q. Okay. Is it -- was it typical for you to provide input
14 on letters from your regulating agency to other governmental
15 entities?

16 Mr. Hasbun: Objection to form. Assumes facts not
17 in evidence.

18 A. I don't know what typical is, but no, it wasn't typical.
19 I mean, they -- I don't know how this flowed, sir, so I don't
20 know how this got to here and it got to me for an opinion.

21 Q. Is it your -- well, do you believe it's appropriate for
22 the president of a regulated bank to be drafting letters on
23 behalf of its regulator to other regulating agencies?

24 Mr. Hasbun: Objection to form. Assumes facts not
25 in evidence. Foundation. Lack of foundation.

1 A. I don't know how to answer that.

2 Q. So you don't know how to answer whether or not helping
3 draft such a letter from a regulatory agency is appropriate?

4 Mr. Hasbun: Objection. Mischaracterizes his prior
5 testimony.

6 The Witness: Well, sir --

7 Mr. Hasbun: No foundation.

8 The Witness: -- the --

9 Mr. Hasbun: Assumes facts not in evidence.

10 A. The regulatory structure in Antigua under the FSRC sort
11 of resembled the NASD model where members were part of the
12 process.

13 So, I mean, this -- asking me for an opinion, and
14 everything in here is factual as far as I can read, I didn't
15 find -- I wouldn't find anything objectionable with sharing my
16 thoughts.

17 Q. Okay. Do you think it's odd that the FSRC would be
18 asking for Stanford International Bank's assistance in writing
19 letters to the Eastern Caribbean Central Bank?

20 Mr. Hasbun: Objection. Assumes facts not in
21 evidence. Speculation. Lack of foundation.

22 A. Again, in the context of what I have in front of me, I
23 don't find this strange.

24 Q. Okay. And at the time, this did not raise a red flag
25 with you about how Stanford International Bank was being

1 regulated, did it?

2 Mr. Hasbun: Objection. Lack of foundation.

3 Assumes facts not in evidence. Mischaracterizes prior
4 testimony.

5 A. I don't know how to answer that, sir. No. I -- you
6 know.

7 Q. Did it raise a concern in your mind about anything?

8 A. No. That doesn't -- that doesn't raise a concern in my
9 mind --

10 Q. So even sit --

11 A. -- with what I have there.

12 Q. So sitting there today, your view is that having Stanford
13 International Bank personnel assist in writing letters on
14 behalf of its regulating agencies --

15 Mr. Hasbun: Objection. Lack of foundation.

16 Assumes facts not in evidence. Asks for speculation.

17 A. Again, sitting here today, after everything -- you know,
18 it's passer rush on Monday morning, sir. I apologize, but
19 it's -- with the way that the regulatory environment was in
20 every single country, including the United States, where the
21 company was looked at, I had no reason to believe that there
22 was something wrong.

23 Q. Did you ever participate in writing any letters on behalf
24 of the SEC?

25 A. I think I answered that, sir.

1 Q. So the answer is what?

2 A. The answer was no and continues to be no.

3 Q. You ever write any letters on behalf of the NASD?

4 A. The who?

5 Q. The entity you referred to a minute ago, the NASD.

6 A. Right. No. But I don't know why the NASD -- no. The
7 answer is no.

8 Q. Have you ever heard of entities that are regulated by the
9 SEC or NASD writing letters on behalf of those agencies?

10 Mr. Hasbun: Objection. Assumes facts not in
11 evidence.

12 A. No, sir.

13 Q. Have you ever heard of that?

14 A. No.

15 Q. Now, as part of your job as president, you received the
16 annual examination reports from the FSRC. Correct?

17 A. That is correct.

18 Q. Okay. Did you ever receive drafts of those reports for
19 comment prior to when they were formally issued?

20 A. I believe every institution got drafts before
21 they -- yes, and I believe every institution got a draft
22 before the final.

23 Q. When you say "every institution," what do you mean?

24 A. In Antigua, sir.

25 Q. Okay.

1 A. They would circulate a draft and then go to final.

2 Q. Okay. And what is -- when you say you believe every
3 regulated entity in Antigua received such drafts, what is your
4 basis for that?

5 A. That was the standard process for FSRC in Antigua.

6 Q. But how do you know that?

7 A. Because I know other bank presidents in the country.

8 Q. And they told you they were receiving --

9 A. Yeah.

10 Q. -- draft reports?

11 A. They always received draft reports, yes, sir.

12 MR. PETRIE: That's the end of that, Your Honor.

13 Our next witness is Mr. Davis, again by videotape.

14 JAMES DAVIS, BY VIDEOTAPE DEPOSITION,

15 Q. Could you please state your name for the record?

16 A. James Davis.

17 Q. Let me ask you just a few things about your background.

18 You attended Baylor University undergraduate. Is that
19 correct?

20 A. Yes.

21 Q. And you began your work with the Stanford entities at
22 Guardian International Bank in Montserrat. Is that correct?

23 A. Yes.

24 Q. And you were controller?

25 A. Yes.

1 Q. Was that your -- did you start in Montserrat or were you
2 in the U.S. and -- and relocated there?

3 A. Started in the U.S., relocated.

4 Q. And when you started in the U.S., were you
5 initially -- what was your initial position in the
6 Stanford -- the first Stanford entity, the Guardian
7 International Bank?

8 A. I was an employee of Stanford Financial Group Company.

9 Q. And where were you based?

10 A. Houston, Texas.

11 Q. And do you recall when you relocated to be controller at
12 Guardian International Bank?

13 A. Summer of 1988.

14 Q. And how long did you remain in that position?

15 A. That's been 26 or -7 years ago.

16 Q. Does 1990 sound about right?

17 A. It was three or four years, maybe.

18 Q. And then were you next controller at the Stanford
19 International Bank, Limited? Were you ever controller for
20 Stanford International Bank?

21 A. Yes.

22 Q. And were -- was that -- was that when the bank was based
23 in Antigua?

24 A. In Montserrat.

25 Q. Oh, it was initially in Montserrat, and then it

1 relocated to --

2 A. That's correct.

3 Q. What were your duties as controller of Stanford
4 International Bank?

5 A. As controller, I was over the financial statement
6 process, the scorekeeping, the bookkeeping.

7 Q. And you eventually became chief financial officer at
8 Stanford International Bank. Is that correct?

9 A. Yes.

10 Q. And did your duties change, or was it just a change of
11 title?

12 A. At that time, a change in title.

13 Q. And when did you become CFO at Stanford International
14 Bank?

15 A. 1992.

16 Q. Now, at some point you became chief financial officer at
17 Stanford Financial Group Companies. Correct?

18 A. Yes.

19 Q. And can we call that SFGC or is there another acronym or
20 another --

21 A. SFG.

22 Q. Okay. SFG? And when did you become CFO at SFG?

23 A. The same time as Guardian International Bank.

24 Q. In that connection, did you work closely with Allen
25 Stanford?

1 A. Yes.

2 Q. I want to focus on the time period of about '93, '94,
3 subsequent to your taking on the role of chief financial
4 officer at SFG. Were you based in Houston?

5 A. At that time, yes.

6 Q. And at that time, '93 and all subsequent times. Correct?

7 A. Yes.

8 Q. Now, you subsequently testified in another -- in a couple
9 of different circumstances about -- about the nature of the
10 Stanford Financial Group and its practices. Correct?

11 A. Yes.

12 Q. Is it fair to say that the Stanford Financial Group from
13 at least 1992 forward was what was -- what is popularly
14 referred to as a Ponzi scheme?

15 A. Yes.

16 Q. And by that I mean it was taking in investors' money, not
17 investing it for the purposes that was stated, and when
18 redemptions were made, it was taking investors' money -- other
19 investors' money and giving it to the people redeeming their
20 CDs. Correct?

21 A. Yes.

22 Q. And this was something that I think you've testified that
23 Mr. Stanford communicated to you he was aware that it was a
24 Ponzi scheme in this way. Correct?

25 A. Yes.

1 Q. I'm going to hand you what's been marked as Exhibit 2 for
2 purposes of identification. And this is actually the plea
3 agreement that you executed. And if you could just look, I
4 believe, on the -- let me find the page -- the 23rd page of
5 Exhibit 2, that is your signature, is it not?

6 A. Yes.

7 Q. And attached I suppose as an exhibit to Exhibit 2 is a
8 letter setting forth your plea agreement with the Department
9 of Justice. Is that correct?

10 A. Yes, sir.

11 Q. Okay. So let me ask you a few specific questions. It
12 states -- and -- and bear with me. I don't want to -- I'm
13 going to try not to bog down too much in the document, but I
14 do want to ask you some specific questions.

15 It states in paragraph C that Stanford's -- that Stanford
16 Bank's primary investment product was referred to as a
17 certificate of deposit which Stanford International Bank would
18 solicit to potential investors in the United States and
19 elsewhere through SFG broker-dealers, sometimes referred to as
20 financial advisors, FAs.

21 That's correct, isn't it?

22 A. Yes, sir.

23 Q. And it states that -- later in that paragraph, Stanford
24 Davis and their conspirators promoted Stanford International
25 Bank's investments as being well-managed, safe and secure,

1 claimed that Stanford International Bank's investment strategy
2 was to minimize and achieve liquidity, and falsely touted in
3 Stanford International Bank's annual reports beginning in at
4 least 1999 an almost year by year percentage and dollar
5 increase in the purported dollar of Stanford International
6 Bank's earnings, revenue, and assets.

7 Based on your personal knowledge, is that a correct
8 statement?

9 A. Yes, sir.

10 Q. Paragraph F states, Stanford, Davis, Chief Investment
11 Officer Laura Pendergest-Holt, and others created and
12 perpetuated the false impression to investors, potential
13 investors, and the majority of Stanford Financial Group
14 employees that Holt was responsible for overseeing and
15 monitoring Stanford International Bank's entire portfolio of
16 noncash assets and that she managed all of those assets
17 through a global network of money managers.

18 Based on your personal knowledge, is that a correct
19 statement?

20 A. Yes.

21 Q. Paragraph G states, Unknown to investors, Stanford,
22 Davis, Holt, and other conspirators internally segregated
23 Stanford International Bank's investment portfolio into three
24 investment tiers: A, which was cash and cash equivalents,
25 tier one; B, investments with outside money managers,

1 sometimes also referred to as outside portfolio managers.
2 That was just tier two. And other assets, T3 or -- tier
3 three.

4 Is that a correct statement based on your personal
5 knowledge?

6 A. Yes, sir.

7 Q. And then it states that, in fact, Holt's management of
8 Stanford International Bank assets was confined to those
9 assets contained in tier two, which by 2008 made up only 10
10 percent of Stanford International Bank's entire portfolio.

11 Is that correct?

12 A. Yes, sir.

13 Q. In fact, by 2008 approximately 80 percent of Stanford
14 International Bank's investment portfolio was made up of
15 illiquid investments, including grossly overvalued real and
16 personal property that Stanford International Bank had
17 acquired from Stanford-controlled entities that falsely
18 inflated prices.

19 Is that a true and correct statement based on your
20 personal knowledge?

21 A. Yes, sir.

22 Q. It goes on to say, At least \$2 billion of undisclosed,
23 unsecured personal loans from Stanford International Bank to
24 Stanford -- Allen Stanford were concealed and disguised in
25 Stanford International Bank's financial statements as

1 investments.

2 Is that a correct statement?

3 A. Yes, sir.

4 Q. And it states in paragraph K that you, as CFO, would
5 extrapolate from the values attributed to a portion of
6 Stanford International Bank's investment portfolio, which was
7 monitored by Holt and managed by money managers, but that you
8 would multiply those actual values by artificial percentage
9 factors necessary to equal the value for deposit or
10 liabilities.

11 Is that also a true and accurate statement?

12 A. Yes.

13 Q. Let me go back to the plea agreement, if we could, to
14 paragraph W on page 16.

15 A. Okay.

16 Q. It states, On September 25, 2006, King provided to
17 Stanford SFG Attorney A, who you have identified as Mauricio
18 Alvarado, and Stanford International Bank Executive A another
19 confidential letter he had received from the SEC wherein the
20 SEC, again, sought records and information regarding Stanford
21 International Bank's CD investment portfolio.

22 Do you see where I read that? I just want to ask you one
23 question about that.

24 A. I see this, yes.

25 Q. Okay. Was Stanford International Bank Executive A Mr.

1 Tolentino, the president of Stanford International Bank?

2 A. Yes.

3 Q. Okay. And based on your personal knowledge it is true
4 and correct that Mr. King, Lee King, provided Stanford,
5 Mauricio Alvarado, and Mr. Tolentino a confidential letter he
6 received from the SEC inquiring about Stanford. Correct?

7 A. Yes.

8 Q. And then it states Stanford, Davis, Stanford
9 International Bank Executive A--Tolentino--and SFG Attorney
10 A--Mr. Alvarado--would then propose various responses designed
11 to mislead the SEC that King would be requested to insert into
12 the FSRC's response to the SEC's confidential letter.

13 Is that a true and correct statement?

14 A. Yes.

15 Q. You were concerned in 2005/2006 that the SEC would
16 discover that the CDs were fraudulent investments and that the
17 entire operation would be shut down and claims would be made
18 against Stanford. Correct?

19 A. I was concerned, as I said earlier a couple of times,
20 throughout that whole period of time that, if the scheme were
21 known by the SEC or any other regulator that was bona fide, it
22 would be the end of the line.

23 Q. Yeah.

24 A. At that time and the time -- or the '90s up to the --
25 through 2008, I believed that Mr. Stanford and his close

1 associates, outside individuals that they hired to help -- I
2 believed that they would, as they had previously, do what was
3 necessary to keep hiding it.

4 So specific 2005, I didn't have a rise in anxiety level.
5 I was under that for a decade and a half. It just keep --
6 keep going forward and did what I was told.

7 Q. And there were a number of facts and circumstances that
8 you were concerned that, if they were disclosed to the SEC, it
9 would result in the immediate shutdown of Stanford. Correct?

10 A. That would happen, yes.

11 Q. And numerous claims would be asserted against Stanford
12 for fraud. Stanford officers and Stanford the company.
13 Correct?

14 A. As a consequence.

15 Q. And some of those circumstances were -- the most
16 important which was that there weren't assets to back the CDs
17 as represented.

18 A. That's correct.

19 Q. Another circumstance was that Stanford was working with
20 the regulator that had oversight over it to prepare responses
21 to the SEC. Correct?

22 A. Yes.

23 Q. Another circumstance was that bribes were being paid to a
24 regulatory official. Correct?

25 A. That was one, yes.

1 Q. And these -- any one of these circumstances might have
2 been enough to bring about, in your view, the shutting down of
3 Stanford and the assertion of fraud charges. Correct?

4 A. Yes.

5 Q. And when you say that for 15 years you were concerned
6 about this, it is because it was the policy and practice of
7 Stanford Financial, Stanford International Bank, as approved
8 by yourself and Allen Stanford, to sell CDs based on false
9 representations that were not backed by the investments that
10 they were represented to contain. Is that correct?

11 A. Yes.

12 Q. And that was the policy from at least the 1990s until the
13 time it was shut down.

14 A. Yes.

15 Q. Now, the loan to shareholder -- well, tell me what that
16 was and how it came to be, if you recall.

17 A. These were monies that were authorized by Mr. Stanford to
18 be expended on certain projects that he initiated and
19 consummated.

20 Q. And when you say monies, you're -- and consummated, those
21 were using monies that came into the bank SIB and that were
22 used to fund other projects of Mr. Stanford's?

23 A. That's correct.

24 Q. All right. And that was contrary to what the investors
25 were told. Isn't that right?

1 A. Yes.

2 Q. And it was also contrary to what the financial advisors
3 selling the CDs were told as well. Is that right?

4 A. Yes.

5 Q. In other words, I want to understand how this money got
6 diverted and how you-all were able to keep everyone from
7 talking about it. Okay?

8 This loan to shareholder ultimately was about \$2 billion
9 by the -- by the time the companies were shut down. Right?

10 A. A little south of that, yes, sir.

11 Q. I mean, it grew over time. Is that right?

12 A. It did.

13 Q. And during the course of your time at Stanford, did you
14 tell both investors and financial advisors that the funds that
15 came into the bank were being invested abroad as -- consistent
16 with these statements?

17 A. Yes.

18 Q. The problem was not all the money was being invested as
19 the investors and the brokers were being told, was it?

20 A. Yes.

21 Q. And so it's a fact that there were real investments with
22 real money managers, but some of that money had been diverted
23 as we saw on the Amadio spreadsheet?

24 A. Yes.

25 Q. Okay. And when did those diversions start such that not

1 all of the money was invested as you explained it to investors
2 and employees?

3 A. Early '90s.

4 Q. At any point during your time with Stanford up until the
5 very end in 2009, did you discuss with any investors the fact
6 that not all of the money was in Europe or other accounts but
7 that upwards of \$2 billion had been diverted?

8 A. No.

9 Q. Okay. Did you have that discussion with any of the
10 brokers that were there?

11 A. No.

12 Q. Did you stand before the body of financial advisors at
13 various meetings throughout the world?

14 A. Yes, I did.

15 Q. Okay. And at those meetings, did you stand up and
16 represent to them how the bank portfolio was performing
17 consistent with the representations and the annual reports?

18 A. Yes, I did.

19 Q. When you -- when you stood in front of them, did it
20 bother you that you were telling them something that would
21 lead to misleading them and ultimately their investor clients?

22 A. As I've said earlier in my testimony, it bothered me the
23 full tenure that I was with the company.

24 Q. Okay. A lot of the financial advisors had questions of
25 you as to how the bank can generate the returns, did they not?

1 A. That's correct.

2 Q. Did you use your best efforts to give them explanations
3 that would address those concerns?

4 A. I gave them -- yes.

5 Q. Tell me kind of in general what you would try to explain
6 to the financial advisors so they could go out and sell CDs to
7 the investors.

8 A. The response was -- and it was formalized in what was
9 called a Stanford investment model -- was that it was a
10 diversified portfolio by product and country and currency, and
11 that the corpus was managed by a number of financial advisors
12 from 15 to 20 different companies, and that the product mix
13 was bonds and equities, currencies, metals, and some hedge
14 fund type of investments.

15 Q. Did you use other resources of the company like Ms. Holt
16 to convince the brokers and the investors that the monies were
17 invested consistent with the published literature?

18 A. Yes. Ms. Holt and her department was instrumental in
19 presenting those pictures.

20 Q. Okay. And when you say "those pictures," there were
21 actual slides put up, showing how the --

22 A. Well, the pictures and the explanations, yes, at various
23 times year to year.

24 Q. At any point during your time with Stanford, did you tell
25 the financial advisors that those pictures were inaccurate

1 that you presented to them?

2 A. Inaccurate?

3 Q. Yeah.

4 A. No.

5 Q. And the -- the pictures or the disclosures in the annual
6 reports for SIBL were also inaccurate, were they not?

7 A. Yes.

8 Q. I guess, let's kind of piece this together.

9 Because the money wasn't invested completely the way it
10 was represented, those funds weren't generating the returns
11 necessary to grow and to make the payoff. Is that right?

12 A. Correct.

13 Q. Because the investments aren't all out there, as you say,
14 generating returns, you have a small amount, maybe 10 or 15
15 percent, that's actually working to get a return. Right?

16 A. Yes.

17 Q. But you have to make it look like you've got enough money
18 off of the whole 100 percent of investments. Right?

19 A. Yes.

20 Q. And so there were people in your organization on the
21 accounting side that were involved in generating a fake
22 revenue entry that would get incorporated into the financial
23 disclosures.

24 A. Yes.

25 Q. Is that right?

1 A. Correct.

2 Q. What was the commission structure for these -- for the
3 advisors who sold these CDs both initially and the trailing
4 commission? Do you remember?

5 A. The finite points of the agreement were that they
6 received one percent of the amount of the CD if that CD or
7 that money stayed with the bank a certain amount of time.

8 Q. Uh-huh.

9 A. And then there was the structure in addition to
10 compensate the financial advisor for the time that the CD
11 actually stayed.

12 Q. So one percent the first year, and then one percent a
13 year for the following four?

14 A. Whatever the percentage was, yes. There was a payout.

15 Q. And that would be separate and apart from whatever
16 percentage -- management fees or whatever that Stanford would
17 charge in connection with managing these assets against the
18 CDs. Correct?

19 A. There were management fees between companies --

20 Q. Uh-huh.

21 A. -- yes.

22 Q. Okay. So if I understand, you were involved from an
23 operational standpoint in more of the day-to-day operations of
24 the money flows for these companies. Right?

25 A. Yes. Plus, I was the best liar that he could have ever

1 hired. Everybody in the whole world would have wished they
2 had a friend like Jim Davis who was Allen Stanford-style
3 entrepreneur. Unfortunately, many tears later, sorrows.
4 But --

5 Q. When it came to --

6 A. -- that's the way it worked.

7 Q. When it came to moving the monies, you had authority; and
8 from time to time, you would direct the monies to be directed
9 from SIB to the various entities.

10 A. Those bank accounts where the funds were held, yes.

11 MR. PETRIE: We now have the beginning, Your
12 Honor-we won't finish by the close of today's business--of
13 Mr. Espy's testimony. And unless you have a different
14 direction, we're aiming to find the most convenient stopping
15 place near 5:00 and will stop then.

16 THE COURT: That's fine.

17 MR. PETRIE: Thank you.

18 THOMAS ESPY, BY VIDEOTAPE DEPOSITION,

19 Q. Can you please state your name for the record?

20 A. I'm Thomas Espy.

21 Q. And, Mr. Espy, my name is Scott Powers. I represent
22 Ralph Janvey. He's a court-appointed Receiver in the
23 matter -- the SEC matter involving the Stanford International
24 Bank.

25 Are you familiar with Mr. Janvey?

1 A. I know who he is.

2 Q. Okay. And you're familiar with the receivership
3 proceedings that are based in Dallas, Texas, in federal court?

4 A. I am.

5 Q. Okay. And what is your occupation?

6 A. I am with Wiley Bros.-Aimtree Capital, which is an
7 investment firm here in Nashville, Tennessee.

8 Q. And what do you do with Wiley Bros.-Aimtree Capital?

9 A. I am president of Aimtree asset management, which is a
10 division of Wiley Bros.-Aimtree Capital.

11 Q. And what do you -- what does that division do, the asset
12 management division?

13 A. We -- it's a new division, and we are catering to high
14 net worth individuals.

15 Q. What kinds of things do you do for the high net worth
16 individuals?

17 A. Asset management, strategic asset allocation, municipal
18 bonds, things of that nature.

19 Q. And as president, do you directly advise people, or you
20 just handle -- manage the department or --

21 A. I manage the department.

22 Q. Okay. And how long have you been with Wiley Bros.?

23 A. Three years approximately.

24 Q. Did you attend college?

25 A. Yes, I did.

1 Q. Where did you attend college?

2 A. St. Lawrence University.

3 Q. And do you have a degree from St. Lawrence?

4 A. I do, a BA in history.

5 Q. Do you have any postgraduate education?

6 A. I do not.

7 Q. Do you hold any certificates or licenses today?

8 A. Yes. Series 7, 66, and I believe the 63.

9 Q. Those are FINRA licenses?

10 A. I believe so.

11 Q. So you now work at Wiley Bros.-Aimtree Capital, and you
12 once worked at Stanford Group Company. Is that correct?

13 A. That's correct.

14 Q. And you are aware that the Receiver, Mr. Janvey, has sued
15 you personally.

16 A. Yes, I am very aware of that.

17 Q. Let me ask you this. What brought you to be interested
18 in the Stanford Group Company job?

19 A. My choice.

20 Q. Well, what -- what is it that brought it to your
21 attention, that it was a possibility?

22 A. Because I knew a number of people over there.

23 Q. Were you recruited to go to Stanford Group Company?

24 A. Don't remember.

25 Q. What was attractive to you about the Stanford Group

1 Company opportunity?

2 A. The upfront money, the payout, and the office space.

3 Q. Let's take those in pieces. What do you mean when you
4 say the up-front money?

5 A. Well, in our business, if you're willing to move your
6 client base from one firm to another, they pay you a -- a -- a
7 bonus, as it were, to come over.

8 Q. Before you moved to Stanford Group Company, what did you
9 know about the Stanford group of entities?

10 A. They were based out of Houston, they were opening an
11 office in Denver and other cities, and they were considered
12 a -- a company on the move.

13 Q. I didn't ask you about the payout. Can you explain what
14 you mean by the payout?

15 A. The payout was attractive, as I recall. A little higher
16 than you would have received at, say, Prudential.

17 Q. And what do you mean by -- what does payout refer to?

18 A. Payout refers to the percentage of the actual gross
19 commission you get to keep.

20 Q. And the gross commission refers to the commission that
21 the brokerage house receives?

22 A. That's correct.

23 Q. So at Stanford Group Company, as compared to Prudential,
24 the percentage that the broker -- individual broker received
25 from the brokerage house's commission was higher.

1 A. Slightly higher, yes.

2 Q. And what did you mean when you referred to the office
3 space being attractive?

4 A. It was a very attractive, A class office space.

5 Q. When you moved over to Stanford Group Company, had you
6 heard of the Stanford International Bank?

7 A. No.

8 Q. Did you talk to Gary Hamilton about Stanford before you
9 came over to Stanford Group Company?

10 A. Yes.

11 Q. What was his role at Stanford Group Company?

12 A. I believe he was the manager of the office.

13 Q. Did he tell you anything about the Stanford CD product
14 before you came over?

15 A. Don't remember, but I didn't get involved in the CD
16 product until later.

17 Q. When did you first meet Gary Magness?

18 A. When I first moved to Denver.

19 Q. Was that social or business?

20 A. Social.

21 Q. When did you first explore the possibility of working
22 with Mr. Magness?

23 A. I believe I inherited Gary's account when Gary Hamilton
24 left Stanford.

25 Q. And when did Gary Hamilton leave Stanford?

1 A. Sometime when I was there.

2 Q. Were you familiar with Mr. Magness taking margin loans
3 against the value of his brokerage accounts while you were
4 working with him?

5 A. I would say he -- when I -- even when I didn't have his
6 account, I think he had a margin loan always against his
7 account since -- since I'd known him.

8 Q. He had that at Stanford Group Company, and he had it at
9 HSBC and other banks?

10 A. Don't know. I can only speak of what he had at -- since
11 I was with him.

12 Q. Right. But while you were with him, you knew that he had
13 accounts at HSBC and Merrill Lynch and U.S. Bank?

14 A. Oh, yeah.

15 Q. Right. And he had margin loans at all those?

16 A. Yes.

17 Q. Okay. Because you didn't just work with him as his
18 broker at Stanford Group Company; you also advised him outside
19 of that. Correct?

20 A. That's correct.

21 Q. Okay. So in a given year, if you had clients in Stanford
22 International Bank CDs in the amount of \$20 million, in that
23 year, you would get \$200,000 in commissions?

24 A. Best of my knowledge.

25 Q. Okay. Now, with respect to these commissions, do you

1 recall disclosing to Mr. Magness that you were receiving
2 commissions in connection with the sale of Stanford
3 International Bank CDs?

4 A. I don't recall.

5 Q. If you could take a look at your deposition again at page
6 83, line 25. You were asked: "And as I understand your
7 testimony, you made all of this -- as far as your fees and
8 bonuses and commissions, you made that information available
9 to Mr. Magness?

10 "Answer: Yes.

11 Did I read that correctly?

12 A. Well, my memory was a lot more fresh then. So this is
13 what I said, yes.

14 Q. You have no reason to disagree with what you said in the
15 SEC transcript?

16 A. No.

17 Q. And the follow-up question was: "Before he invested in
18 the CD?"

19 And your answer was, "Yeah, Gary knew what I was making
20 all the time. Everything is a negotiation with Mr. Magness."

21 Is that correct?

22 A. Yes, that's absolutely true.

23 Q. What do you mean by everything is a negotiation with Mr.
24 Magness?

25 A. Gary is -- is a businessman, and he wants to get the best

1 possible deal he can get, like any good businessman.

2 Q. And I take it you would not have been making money off of
3 his investments as a registered financial advisor without him
4 knowing about it.

5 A. Not necessarily.

6 Q. Okay. In this particular circumstance, this is something
7 that you made sure to bring to his attention.

8 A. You know, I don't recall. You're asking me to make -- I
9 can't make -- I can't say that because I can't remember.

10 Q. In 2009, you told the SEC that that was true.

11 A. And that -- that's probably true. But you're asking me
12 today which is nine --

13 Q. From 2001 to the end of 2004, you worked for Mr. Magness
14 separately outside of Stanford Group Company. Isn't that
15 right?

16 A. Detail that question, because I'm not sure what you mean
17 I worked for Mr. Magness outside of the outside of -- I don't
18 know what you mean.

19 Q. Okay. Well, take a look, if you would, at page 36 of
20 your deposition with the SEC, line 16.

21 You were asked: "Have you ever received any compensation
22 from any entity other than Stanford Group Company?"

23 And your answer was, "Yes."

24 And the question was, "Okay. And what entity is that?"

25 And then you said, "At the early I worked -- actually I

1 guess I should give you lineage of where I worked. I worked
2 at Gary's office for a number of years when I first started at
3 Stanford, which kind of give you an idea of what I actually
4 did for Gary."

5 Do you see that?

6 A. I'm not sure. Where are you? What page are you on?

7 Q. Bottom of 36. Of the transcript.

8 A. Gotcha. Now where are you?

9 Q. So take a look at line 16 through 25. Does this refresh
10 your recollection about whether you worked directly for Mr.
11 Magness and received compensation from him outside of
12 Stanford?

13 A. Received direct compensation from him?

14 Q. Yes.

15 A. I don't recall. I received -- I mean, I did a lot of
16 things for Gary, but most of what I did was not directly
17 compensated by Gary. It was because of an investment that I
18 was paid on. Whether -- that's my best recollection.

19 Q. All right. So take a look at page 37 of the transcript,
20 page 10 of the document.

21 A. Uh-huh.

22 Q. Lines 13 through 18.

23 A. 13 through 18.

24 Q. You were asked, "How large were your consulting fees you
25 received from Gary Magness?"

1 And the answer was, "It all depended. It depended on
2 what we were doing. But, you know, I think the salary was --
3 you know, the consulting fee was 150 a year for two or three
4 years."

5 A. You know what? You're right. I recall that.

6 Q. Okay. So --

7 A. Don't remember what I did, but I do recall it.

8 Q. But he was paying you consulting fees of \$150,000 a year?

9 A. As best -- as best I can recall, yeah.

10 Q. Is it accurate that the time period you were working for
11 Mr. Magness was in the -- around the 2003 to 2005 time frame?

12 A. I don't remember.

13 Q. You told the SEC that it was 2003 to maybe the end of
14 2005. Do you have reason to think that's not -- do you recall
15 how it came up that you were paid this consulting fee by Mr.
16 Magness?

17 A. No.

18 Q. Was that consulting fee disclosed to Stanford Group
19 Company?

20 A. I don't remember.

21 Q. Well, let me ask it this way. Was your first trip to
22 Antigua a trip with Mr. Magness?

23 A. I believe so.

24 Q. Please take a look at tab 126, Plaintiff's Exhibit 126.
25 All right. This is an email document with an attachment, and

1 the attachment reflects some information about trips on
2 Stanford Aviation, LLC.

3 A. Uh-huh.

4 Q. I'd like you to please turn to page 12 of the attachment.

5 A. Okay.

6 Q. And there's some information reflecting a flight --
7 actually four flights in April of 2002 between Denver and St.
8 John's, Antigua.

9 A. Uh-huh.

10 Q. Do you recall taking a trip with Mr. Magness to Antigua
11 in April of 2002?

12 A. Yeah, if that's the right date. I mean, I don't remember
13 the date, but I remember taking the trip.

14 Q. Okay. And the passengers who are listed, you are the
15 lead passenger, and then there is a Maria Kamihira, Gary
16 Magness, and Sarah Siegel.

17 Who are those individuals?

18 A. Well, Sarah is now Gary's wife. And who was I with? Oh,
19 yeah. Maria Kamihira? She must have been the girl I was
20 dating at the time.

21 Q. Okay. And it reflects that you took a -- I guess you
22 stopped in Miami on the way down there.

23 A. That's correct.

24 Q. And do you recall going to a Stanford International Bank
25 board meeting while you were in Miami?

1 A. That is correct.

2 Q. What happened there?

3 A. Just walked in, met everybody, and left.

4 Q. And I take it the board was there at the board meeting?

5 A. That is correct.

6 Q. Was anybody else there that you can remember other than
7 the members of the board of directors?

8 A. Allen Stanford, the board of directors, and that's as far
9 as I can recall.

10 Q. Did you have to leave the airport to get to the board
11 meeting, or were they meeting somewhere close to the --

12 A. No, we had to leave. It was -- we -- we left, took a car
13 there, and then came back to the airport.

14 Q. Was there any substantive discussion about the bank at
15 all while you were at the board meeting?

16 A. Not that I recall.

17 Q. And what was the purpose of leaving the airport to go
18 visit the board before you went on to St. John's?

19 A. Allen Stanford wanted -- wanted me to bring Gary over.

20 Q. How did this trip in 2002 get arranged in the first
21 place?

22 A. I don't recall.

23 Q. Why were you going to Antigua?

24 A. To -- to meet -- to do due diligence on the bank, from my
25 point of view. I hadn't been there either.

1 Q. So at this point in 2002, was Mr. Magness considering an
2 investment in the Stanford International Bank CD product?

3 A. No. I think it was more me. It was more related to me
4 introducing Gary to the bank.

5 Q. From your perspective with the -- with the goal being
6 that if it was acceptable that he would invest in the product?

7 A. If it was acceptable, then he would entertain the idea.
8 I'm a salesman. It was my job to do these things, so --

9 Q. And what do you recall doing in Antigua once you arrived?

10 A. We went to Jumby Bay. At that time there was a
11 corporate, I think, condo there, so we stayed in two condos
12 next to each other. We met with -- as I recall -- I don't
13 recall even going to the bank really. I remember having a
14 lunch with Franz Vingerhoedt and -- what was his name -- and
15 some other gentleman at the bank. It's Juan Rodriguez. We
16 may have gone to the bank. I don't recall.

17 Q. And did they give you a presentation about -- anything
18 about the bank or how the bank made money or what its
19 investment strategies were?

20 A. I don't remember.

21 Q. Did you meet with any regulators, government regulators,
22 that is?

23 A. No.

24 Q. From this document it appears that you were there from
25 April 2nd, 2002, to April 8th, 2002. Did you do anything

1 besides bank-related activities?

2 A. I think I went water-skiing. I -- I don't recall what we
3 did, but we were at Jumby Bay for, I think, three or four
4 days.

5 Q. And Jumby Bay is a resort?

6 A. That is correct.

7 Q. I'm just trying to get a sense of was most the time spent
8 on due diligence activities related to the bank, or was most
9 of it leisure?

10 A. Most of it was leisure.

11 Q. And you don't recall whether you went to the actual bank
12 building?

13 A. Do not remember.

14 Q. Do you recall whether you asked to see any documents
15 about the bank or the CD product or strategies around it?

16 A. Don't remember.

17 Q. Outside of the commissions you made for selling the
18 Stanford International Bank CD product, did you have any other
19 appreciable commissions coming in from Stanford Group Company?

20 A. Yeah, for trading. Trading -- you mean outside
21 of -- outside of Stanford?

22 Q. Outside of the Stanford International Bank CD
23 commissions, were you --

24 A. No, no. There was a lot of trading commissions --

25 Q. Okay.

1 A. -- or trading securities.

2 Q. Were you doing a lot of trading of securities?

3 A. Yes.

4 Q. Okay. Did you have any other clients besides Mr. Magness
5 for whom you were trading securities?

6 A. Yes, but not -- he was primarily my -- he would be 90
7 percent of what I did.

8 Q. Okay.

9 A. He was a full-time job.

10 Q. Compared to the CD commissions, if you could just put it
11 in relative terms, were -- was most of your money, starting in
12 2005 forward, coming in from Stanford International Bank CD
13 commissions or trading commissions?

14 A. I would say more coming from the -- the CD.

15 Q. What kinds of information about the bank did Mr. Magness,
16 or GMAG, LLC, receive prior to making this investment in
17 December of 2004?

18 A. I don't recall. With the exception of the subscription
19 documents, I don't recall.

20 Q. You recall that there was a disclosure statement, an SIBL
21 disclosure statement?

22 A. Yes.

23 Q. And was it your practice to provide the disclosure
24 statement prior to investment?

25 A. Yes.

1 Q. And do you recall that there were SIBL annual reports?

2 A. I don't recall.

3 Q. Do you recall that there was an SIBL rate card?

4 A. Yes.

5 Q. And did you show the SIBL rate card as a matter of
6 practice before SIBL investments?

7 A. I don't recall.

8 Q. Okay. Do you remember ever seeing the SIBL annual
9 reports?

10 A. Yeah, I think so. Oh, yeah, absolutely. Yeah. I
11 remember seeing the annual reports.

12 Q. Do you recall that the SIBL annual reports had things
13 like assets and liabilities of the bank and income statements
14 and those sorts of things?

15 A. I don't remember what -- what it had in it at this point.

16 Q. Okay.

17 A. But I remember seeing the reports.

18 Q. What about the Stanford Eagle magazine? Is that
19 something you ever interacted with?

20 A. The Stanford --

21 Q. Stanford Eagle magazine?

22 A. I think they did -- I think I was -- I recall -- I think
23 I was in it one time. I don't remember, but I remember
24 something about being featured in it or something, or at least
25 a picture of me.

1 Q. In connection with the Baja Racing?

2 A. Oh, yes.

3 Q. Yes?

4 A. Maybe. Yeah, that might have been it, yeah.

5 Q. What are the kinds -- so December 2004, Gary Magness is
6 looking to put \$15 million in the Stanford International Bank.
7 What are the kinds of things as a financial advisor you would
8 want him to know before doing that?

9 A. I don't recall.

10 Q. From your perspective, was there any heightened due
11 diligence required of the bank as a consequence of the bank
12 being an offshore bank in the Caribbean?

13 A. That's the reason why we went down to visit it.

14 Q. And what reason, if any, do you recall was it that it was
15 over two and a half years from the time of the visit to the
16 time of the investment?

17 A. I don't recall.

18 Q. And that trip in 2002 was mostly leisure and involved a
19 short visit or a lunch visit with Mr. Vingerhoedt and Mr.
20 Rodriguez. What other due diligence did you do or conduct in
21 connection with the investment in the bank?

22 A. I don't remember. I'm sorry.

23 Q. What did you get from the visit to Antigua that was
24 useful?

25 A. I don't recall.

1 Q. Do you recall anything about that visit that gave you
2 greater comfort with the bank than you had before you went on
3 the visit?

4 A. You know, all I remember about that trip was having lunch
5 with Franz Vingerhoedt at Jumby Bay. We may have gone over to
6 the bank. I don't remember. And on that trip -- I'm sorry,
7 that's all I remember except for having a good time.

8 Q. In the leisure portion of the trip, you had a good time.

9 A. Yes.

10 Q. Before December 2004, what information about the bank did
11 you have that made you comfortable advising Mr. Magness to get
12 involved with it?

13 A. I can tell you that I became more comfortable with the
14 bank over time because the bank was growing. I can also tell
15 you that it was my idea that I presented to Mr. Magness the
16 bank and said I felt comfortable with it at this point based
17 off of my peers and the growth of the company as far as I
18 could tell.

19 Q. Anything else that you can recall sitting here today?

20 A. Not right now, no.

21 Q. So Plaintiff's Exhibit 123 is a Stanford International
22 Bank brochure.

23 A. Yes.

24 Q. Do you recall seeing brochures like this while you were
25 working at Stanford Group Company?

1 A. I do.

2 Q. Do you recall sharing them with Mr. Magness?

3 A. I don't recall sharing them with Mr. Magness, but I'm
4 sure I did.

5 Q. On page 120348 --

6 A. 120348, yes.

7 Q. -- which is also page 5 of the brochure, there is some
8 messaging about Stanford International Bank CDs outperforming
9 U.S. bank CDs by an average of 4.7 percent. Do you see that?

10 A. Yes.

11 Q. Would you say this was a fairly consistent message that
12 the Stanford International Bank gave out to the people who
13 were investing in and considering investing in the bank?

14 A. I would say that's accurate based off what I'm looking
15 at, yes.

16 Q. And the comparison to the U.S. bank CDs, that was a theme
17 in the marketing of this CD in the U.S., was it not? A
18 consistent theme?

19 A. Yes.

20 Q. What was your understanding about what Stanford
21 International Bank did with the money once it was invested in
22 the bank?

23 A. Well, what they told us and what their marketing
24 information consistently said, that it was a well -- it was a
25 fully -- I mean, it was really set up, in my view and the way

1 it looked at it, as a single purpose investment bank, no
2 different really than a portfolio. If it was run the way they
3 said it was run, it was a fully-diversified global portfolio
4 designed to essentially be more like a -- it was more like a
5 hedge fund than it was anything else.

6 I mean, the idea was through -- if they did -- and it was
7 guaranteed by the bank, by Allen Stanford for the most part,
8 but we never looked at it any other than what it was really
9 was, which was a way for us to try and put money that wasn't
10 at work to work and earn an arbitrage off what we could borrow
11 it against, what we could put it out.

12 We never looked at it as, you know, a -- anything other
13 than what it was, which was a CD product, offshore, lower
14 cost, and we could do the arbitrage. That's why we were
15 invested in it.

16 MR. PETRIE: If that works, Your Honor, it's at a
17 stopping place.

18 THE COURT: That's perfectly good stopping place.

19 That takes us to the end of the day. You-all have a very
20 pleasant evening, a safe trip home and back. We'll see you
21 tomorrow at 9:00.

22 (Whereupon, the jury left the courtroom.)

23 THE COURT: Do you-all know how much of Rodriguez
24 and Davis get charged to the Receiver?

25 MR. SADLER: We'll have to report back, Judge.

1 THE COURT: Okay.

2 MR. SADLER: We don't have it at our fingertips.

3 THE COURT: The Magness parties are keeping tabs on
4 time, I trust, because you're a good way into your 1050-minute
5 budget.

6 MR. PETRIE: Yes, Your Honor.

7 THE COURT: Okay. It's normal as the party with the
8 burden of proof for you to use more time up front, but I just
9 want to be sure you're thinking about cross-examining Mr.
10 Janvey, for example, or having some time for closing argument.

11 MR. PETRIE: We thought we would save some time for
12 that, Your Honor. We're very cognizant of the limit. Thank
13 you.

14 THE COURT: Okay. Good. I just want to be sure.

15 MR. SADLER: Your Honor, we do have some exhibits
16 that need to be admitted that came in through the Wilk depo.

17 THE COURT: Okay.

18 MR. SADLER: And I can just on the record, Judge,
19 Plaintiff's 323, 324, 303, 310, and 318. Those all came in
20 through the Wilk deposition, and those need to be admitted.
21 I'm sorry. I misspoke. Let me just read those again.
22 Plaintiff's Exhibit 323, 324, 308, 310, and 318. So move to
23 admit those.

24 THE COURT: Any objection?

25 MR. PETRIE: Sorry, Your Honor. I'm just catching

1 up.

2 THE COURT: Okay.

3 MR. PETRIE: We have no objection, Your Honor.

4 THE COURT: They're admitted.

5 MR. SADLER: And then Plaintiff's 126 came in

6 through the -- through Mr. Espy's testimony so far.

7 Plaintiff's 126, it's not yet admitted. We'd move for that

8 document to be admitted.

9 MR. PETRIE: No objection, Your Honor.

10 THE COURT: It's admitted.

11 MR. SADLER: That's all.

12 THE COURT: Anything from the Magness folks?

13 MR. PETRIE: No. Thank you, Your Honor.

14 THE COURT: Okay. If you-all could come up. I have
15 something for you. And, otherwise, we are in recess.

16 (The proceedings were concluded at 5:05 p.m.)

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1 I HEREBY CERTIFY THAT THE FOREGOING IS A
2 CORRECT TRANSCRIPT FROM THE RECORD OF
3 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.
4 I FURTHER CERTIFY THAT THE TRANSCRIPT FEES
5 FORMAT COMPLY WITH THOSE PRESCRIBED BY THE
6 COURT AND THE JUDICIAL CONFERENCE OF THE
7 UNITED STATES.

8
9 S/Shawn McRoberts 01/12/2017

10 _____DATE_____
11 SHAWN McROBERTS, RMR, CRR
12 FEDERAL OFFICIAL COURT REPORTER
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APPENDIX F

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

RALPH S. JANVEY, IN HIS	(CAUSE NO. 3:15-CV-401-N
CAPACITY AS COURT-APPOINTED)	
RECEIVER FOR THE STANFORD	(
INTERNATIONAL BANK, LTD.,)	
et al.,	(
Plaintiff,)	
	(
vs.)	
	(
GMAG LLC, MAGNESS SECURITIES)	
LLC, GARY D. MAGNESS, and	(
MANGO FIVE FAMILY, INC., IN)	
ITS CAPACITY AS TRUSTEE FOR	(
THE GARY D. MAGNESS IRREVOCABLE))	DALLAS, TEXAS
TRUST,	(JANUARY 13 2017
Defendants.	(9:00 A.M.

VOLUME 5

TRIAL ON THE MERITS
BEFORE THE HONORABLE DAVID C. GODBEY
UNITED STATES DISTRICT JUDGE
and a jury

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P R O C E E D I N G S

JANUARY 13, 2017

THE COURT: Good morning. How are we doing?
Anything we need to talk about?

MR. PETRIE: Just minor adjustment, Your Honor. The way the software works when we do those transcripts, it clipped off two bits on two of them. They are only a question or two long, and so we thought we -- we went in, manually tweaked them, thought we would replay them, and just wanted to let you know so you didn't think we were backtracking. But it is necessary to give the completeness.

THE COURT: That's fine. Do you want to tell them that, too, or do you want me to say something?

MR. SADLER: Maybe it's better for the Court. The witness' answer was cut off.

MR. PETRIE: If they think back to yesterday, they may just think it is a hiccup. But other than that, we are all set.

THE COURT: All righty.
(Whereupon, the jury entered the courtroom.)

THE COURT: Be seated.

Good morning. How are you-all doing?

SEVERAL JURORS: Fine.

THE COURT: Good. We are set, I think, to just power on through into the three-day weekend.

1 The lawyers have told me that there were kind of some
2 editing glitches in part of the last video that we saw, so
3 they're going to have to back up a little bit and replay some
4 of it because little bits were cut off. I don't think it's a
5 whole bunch, and we're not going to be wasting your time, but
6 they wanted to be sure you heard the full questions and
7 answers. So if it sounds familiar, it probably is.

8 Sufficient?

9 MR. SADLER: Yes, sir.

10 MR. PETRIE: Yes, sir. Thank you.

11 THE COURT: Let's go. Thank you.

12 THOMAS ESPY, BY VIDEOTAPE DEPOSITION, continued,

13 Q. From 2001 to the end of 2004, you worked for Mr. Magness
14 separately outside of Stanford Group Company. Isn't that
15 right?

16 A. Detail that question, because I'm not sure what you mean,
17 I work for Mr. Magness outside of the -- outside of -- I don't
18 know what you mean.

19 Q. Okay. Well, take a look, if you would, at page 36 of
20 your deposition with the SEC, line 16. You were asked, "Have
21 you ever received any compensation from any entity other than
22 Stanford Group Company?"

23 And your answer was, "Yes."

24 A. Yes.

25 Q. And the question was, "Okay. And what entity is that?"

1 And then you said, "At -- at the early, I worked --
2 actually, I guess I should give you a lineage where I worked.
3 I worked at Gary's office for a number of years when I first
4 started at Stanford, which kind of give you an idea of the
5 personal kind of -- what I actually did for Gary."

6 Do you see that?

7 A. Yeah.

8 Mr. Petrie: Same objection.

9 Q. What was your -- you said it is a well-diversified
10 portfolio, is what Stanford International Bank described.

11 A. That's correct.

12 Q. Portfolio of what?

13 A. Stocks, bonds, commodities, short positions, some real
14 estate. It was global. It was supposed to be invested with
15 managers that they had long-term outstanding relationship
16 throughout the world, both long and short.

17 So it was running a portfolio, the idea being that if it
18 earned 12 percent, it could pay out five or six percent. And
19 the bank made money, and the clients were able to get a higher
20 rate of return. Much the same as a hedge fund doe.

21 Q. And --

22 A. Much the same as a hedge fund does.

23 Q. Right. Are you familiar or do you know of any hedge
24 funds that would pay guaranteed rates of returns to its
25 investors?

1 A. Not to my knowledge.

2 Q. Like in a hedge fund, if the hedge fund makes 20 percent,
3 the hedge fund manager is going to make some percentage, and
4 then you're going to share in the return --

5 A. That's right.

6 Q. -- right? And if the hedge fund loses 20 percent, you're
7 going to share the loss. Right?

8 A. Uh-huh.

9 Q. Is that yes?

10 A. That's correct, yes. Sorry.

11 Q. And so if you are invested like a hedge fund -- or you're
12 invested in a hedge fund, you have to have some expectation
13 that the hedge fund can take losses. Right?

14 A. Yes, and we had no -- it wasn't -- we had no reason to
15 believe that the bank couldn't lose money, too.

16 Q. And what would happen if the bank lost money?

17 A. The -- it says in the -- in the documents that the -- and
18 if you -- when you read the document as -- and we've looked at
19 this, that the bank is only guaranteed to its ability to pay.
20 So it was a guaranteed rate. But if the bank did make money,
21 it wouldn't be able to pay you, so -- we understood that.

22 Q. And when did you come to that understanding?

23 A. From the very beginning.

24 Q. It's true, isn't it, that Stanford International Bank
25 never disclosed the identity of its money managers to the

1 investing public?

2 A. That is -- that is my recollection.

3 Q. And, likewise, Stanford International Bank did not
4 disclose its investment strategies to the investment public --
5 invested.

6 A. Best of my knowledge, they did not. They disclosed the
7 portfolio mix. As I recall, there was a pie chart saying --
8 like most -- you know, as you see in a lot of those things,
9 this sector, that sector, that sector, that sector.

10 Q. So take a look at Plaintiff's Exhibit 22. Okay. 22 is
11 the Stanford International Bank 2005 annual report. Do you
12 recall seeing documents like this while you were working at
13 Stanford Group Company?

14 A. Yes.

15 Q. And at 58255, just a couple of pages later, there's an
16 income statement and balance sheet for the bank?

17 A. Uh-huh. It was 256 or 255. Which one are you looking
18 at?

19 Q. That was at 255.

20 A. Okay.

21 Q. All right. And then at -- if you proceed a few more
22 pages, we get to 58264.

23 We have a pie chart describing financial assets in the
24 left-hand side of the page?

25 A. Uh-huh.

1 Q. Is that what you were talking about in terms of pie
2 charts?

3 A. Yeah, that's what I'm talking.

4 Q. So here we have equity a little over 50 percent?

5 A. Uh-huh.

6 Q. So that -- your understanding of that would be it would
7 -- is stocks in publicly held companies?

8 A. Uh-huh.

9 Q. Is that yes?

10 A. Well, you know, I don't know. What it -- it refers to
11 equities, yes.

12 Q. Okay.

13 A. So I would assume public company.

14 Q. Okay. And then we have fixed income of something a
15 little over 20 percent.

16 A. Right.

17 Q. And that would be things like bonds?

18 A. That would be my understanding, yes.

19 Q. Corporate bonds --

20 A. Right.

21 Q. -- or government bonds?

22 A. Corporate, government, high yield, whatever, yeah.

23 Q. Precious metals, do you have an understanding what
24 precious metals would refer to?

25 A. Yes, sure.

1 Q. That would be gold and silver, those kinds of things?

2 A. Gold, silver.

3 Q. Then we have alternatives?

4 A. Correct.

5 Q. And the alternative part of the portfolio, that's where
6 the bank would be doing a long and short trading?

7 A. That's my understanding, right.

8 Q. Okay.

9 A. Or hedging options, whatever -- whatever goes into the
10 alternative.

11 Q. So in the fixed income part of the chart, for example,
12 the bank has bought a government bond or a corporate bond, and
13 it's just making dividends off of those bonds or income off of
14 those bonds -- off the coupon, I guess.

15 A. Maybe. Could be trading high yield bond and -- whatever
16 it is, it's in fixed income.

17 Q. Did anybody at Stanford ever say, The way Stanford
18 International Bank makes money is that it -- it can trade in a
19 variety of different locations, and it can make money to small
20 gains between the bid and the ask, and you add those together
21 over time and they can make 12 percent?

22 A. Not -- not -- I don't recall ever hearing that.

23 Q. Do you recall anybody ever saying that Stanford
24 International Bank could make money because you could trade
25 stock in one country and then trade it again in a different

1 country minutes later, and then you could just make little
2 gains like that over and over?

3 A. I never heard anything to that effect.

4 Q. Did anybody ever say anything about Stanford
5 International Bank make -- Stanford International Bank
6 employing something called a put and call strategy?

7 A. I don't recall.

8 Q. Did you ever discuss any of those concepts for the last
9 three questions with Gary Magness that you can remember?

10 A. Not that I can remember.

11 Q. Going back to 2004, 2005, and 2006 when the investments
12 were being made in the first place, did anybody at Stanford
13 tell you that Stanford International Bank was invested in real
14 estate?

15 A. I recall that they told us, with the exception of the
16 bank, there were no real estate investments; that the only
17 investment -- the only real estate investment, as far as I
18 recall, was the building itself. Everything else were liquid
19 investments across the world.

20 Now, Allen Stanford owned other things, but that was
21 outside of what the bank owned, to the best of my knowledge.

22 Q. And then what about private equity investments? Did you
23 have an understanding about whether the bank was in private
24 equity investments?

25 A. My recollection that they were all liquid securities.

1 The first -- the first hint that private equity was involved
2 was a big red flag, and that was at the very end. That came
3 from Juan Rodriguez, said in a call, and this was, I
4 think -- when did the -- you'll have to refresh my memory.

5 When did they close the bank?

6 Q. February 2009?

7 A. February 2009? I believe this call was, like, in
8 December, and it was a call that I think I set up because
9 I -- that was the first time I had ever even heard private
10 equity.

11 Q. Before advising Mr. Magness to invest with Stanford, did
12 you make any investigation of who was on the board of
13 directors? I understand you met them, but who they were?

14 A. Not really. Not that I recall.

15 Q. We -- we looked at the pie charts, and you knew about
16 what the pie charts look like.

17 But in -- but beyond that, did you know which particular
18 securities were in the various parts of the portfolio?

19 A. No. That I recall, no.

20 Q. Is that something that you would have wanted to know?

21 A. Something I asked Jim Davis if he would give us more
22 clarity into what the investments were.

23 The answer from Jim Davis was, you know, we've had these
24 relationships for many years, and you wouldn't ask -- I just
25 remember this comment, You wouldn't ask a bank on -- what

1 they're investing in; you know, a commercial bank isn't going
2 to tell you all their investments; we're not going to tell you
3 ours, because then it gives up our ability to be competitive,
4 which made sense.

5 Q. Did you feel comfortable in recommending the investment
6 in the Stanford International Bank CD despite not knowing what
7 was in its portfolio?

8 A. Yes, I did.

9 Q. And why was that?

10 A. From my due diligence of visiting the bank, you know,
11 visiting -- I mean, for every -- for all intents and purposes,
12 everything we saw looked ex -- very above board.

13 Q. And this is at the time you're making the investments in
14 2004, 2005, 2006?

15 A. Correct.

16 Q. Did you have any Stanford International Bank customers
17 outside of the Magness umbrella?

18 A. I did not.

19 Q. Let me show you Plaintiff's Exhibit 89. We talked
20 earlier about a Stanford Eagle magazine?

21 A. Uh-huh.

22 Q. Is this an example of one of the Stanford Eagle
23 magazines?

24 A. I believe so.

25 Q. And were these magazines available to financial advisors

1 to share with investors and potential investors?

2 A. I believe so.

3 Q. All right. Take a look at page 49. You mentioned that
4 you were in one of these Stanford Eagle magazines.

5 A. Yeah, I -- well, let me see 49. I thought I was. Oh,
6 yeah, this is -- yeah, this--this sounds right.

7 Q. And on page 49, there's a picture of you and Mr. Magness,
8 Mr. Knudson, and somebody named Rob Kittleson?

9 A. Rob Kittleson, yeah.

10 Q. Who is Rob Kittleson?

11 A. Rob was the race manager for Mango Racing.

12 Q. Okay. And then there's a picture of a Mango Racing truck
13 with a Stanford Group Company logo on the back.

14 A. That is correct.

15 Q. And Mr. Magness owned the Mango Racing team?

16 A. That is correct.

17 Q. And he advertised Stanford Group Company on his trucks
18 from -- on -- on at least one occasion.

19 A. It -- I think for one -- one year maybe.

20 Q. Okay. For one race season?

21 A. One race season.

22 Q. And this is something that he did at the request of you
23 or somebody at Stanford?

24 A. At my request. At this point, Stanford was sponsoring,
25 you know, the yachting -- the big yachting events. They would

1 sponsor -- at a later time, I even -- Stanford sponsored a --
2 you know, race across America.

3 So I went to Gary. Gary would have never taken
4 advertising, but we needed new race suits. So I said, Hey,
5 let's -- let's see if Allen will -- or Stanford Group will
6 sponsor us. So I think they sponsored us to the tune of
7 like -- I shouldn't say, but maybe 50- or \$60,000.

8 Q. Please take a look at Plaintiff's Exhibit 32, which I
9 believe should be in your book.

10 A. You want that?

11 32 is here.

12 Q. This is an email from Chuck Wilk to Tonya@Magness.net,
13 who I think is Tonya Dokken. Is that right?

14 A. I believe so, yeah. Not I believe so. Yes.

15 Q. And the -- the date of the email is May 22nd, 2006, and
16 it forwards an attached article from Bloomberg dated May 17th,
17 2006. Do you see that?

18 A. Yes.

19 Q. And if you turn to the next -- the second page of the
20 exhibit, I believe you'll see the actual Bloomberg article,
21 and it is -- the article is entitled Stanford Financial's
22 Family Ties -- Family Tie Fails to Impress University.

23 A. Uh-huh.

24 Q. Do you remember seeing this article in Bloomberg?

25 A. I do.

1 Q. And there was some discussion about whether Stanford
2 actually had a connection to Stanford University.

3 A. Right.

4 Q. I want to direct your attention to the bottom of the
5 first page of the article. The second sentence of the first
6 paragraph says, "'In 1999, Stanford Financial tried to take
7 over Antiguan International Business Corp., which regulated
8 offshore companies on the island,' said Jonathan Weiner, who
9 was then a deputy assistant Secretary of State."

10 Do you recall any discussion or knowing about that
11 allegation?

12 A. I don't recall it, no. I remember -- what I recall was
13 the -- the -- the Stanford trying -- Allen Stanford trying to
14 do something with Stanford University having to do with
15 refurbishing some house or something like that. It was some
16 accusation that he wasn't Stanford -- wasn't that Stanford.

17 Q. If you were aware of an allegation that Stanford had made
18 an effort to take over the regulation of its own bank in
19 Antigua, would that have been a concern to you?

20 A. Probably.

21 Q. Would you have investigated it further if you heard about
22 it?

23 A. I don't know. I can't say what I would have done. I
24 mean, it's easy to say what you would do now. I'm not sure
25 what -- what I knew then or what I would have done.

1 Q. But it would have been a concern to you.

2 A. It may have been at the time, yeah. I don't -- but I
3 don't recall -- I don't recall it at this point.

4 Q. But it is true that Mr. Stanford was telling people that
5 one of the things that made the bank lower risk is that it was
6 regulated by government authorities in Antigua.

7 A. That was his statement, yes.

8 Q. And implicit in that is those regulatory authorities are
9 independent of Stanford.

10 A. That was my understanding, yes.

11 Q. Okay. Let me show you Plaintiff's Exhibit 200 and ask
12 you if you recall Stanford making a donation to some kind to a
13 fashion show that Ms. -- Mrs. Magness was associated with?

14 A. Yeah.

15 Q. Do you recall -- you recall that happening?

16 A. Uh-huh.

17 Q. And that was about \$60,000?

18 A. Yeah. That may have been the 60K I remember.

19 Q. And in that -- what do you know about what that fashion
20 show was about or why Mr. Magness was interested in it?

21 A. Well, Mr. Magness wasn't; his wife was. And it was a
22 fashion show that was held in -- in New York that Sarah was
23 somehow associated with, and I was asked by Sarah to see if
24 Allen Stanford would do something to this.

25 And I actually spoke to Allen Stanford on this. And he

1 asked me, Why are we doing this?

2 And I had said to him, you know, Gary's a big client of
3 the bank and I think it's in our best interest, and that I
4 think that everything that we do to help Gary helps us.

5 Q. And what was Mr. Stanford's response?

6 A. He said yes.

7 Q. Now --

8 A. This is one of the few times -- I only spoke to him about
9 five times, I think, in my whole career, so --

10 Q. And this was one of those times?

11 A. This is one of those times. This was an email, but I
12 actually spoke to him. And at my urging, he decided, Okay, I
13 will invest in this.

14 Q. And did he communicate that to you on the phone and then
15 follow up with an email?

16 A. Wait a minute. What's this -- yes. I think I may have
17 emailed him first, and then he -- and then we actually spoke
18 on the phone on this one.

19 Q. I see. And Plaintiff's Exhibit 200 is Mr. Stanford's
20 email to you, and it's dated September 5th, 2006. Correct?

21 A. I believe so, yes.

22 Q. Please take a look at 27 -- Plaintiff's Exhibit 27 in
23 your book.

24 A. Hang on.

25 Q. Plaintiff's Exhibit 27 is a letter from yourself to Mr.

1 Magness dated September 26, 2006. Is that right?

2 A. That is -- I would imagine so, yeah. That's what it says
3 here.

4 Q. Okay. And this reflects a proposal whereby Mr. Magness
5 would make at least \$25 million in investments in the bank,
6 that is Stanford International Bank, by the end of the year
7 and then he would get certain things in return --

8 A. Yeah.

9 Q. -- like an improved rate card?

10 A. I think this had to do not so much with -- wait. Let me
11 see. Wait a minute. I got to read it first.

12 Yeah. This was more or less related to -- because Gary
13 had -- I was making enough money in the bank that I was
14 negotiating now commissions. So I would reduce our -- my
15 commission rate to virtually -- I think it's to a penny or
16 something like that.

17 Q. Oh, I see. So on the -- but on the first half of this
18 letter, this refers to --

19 A. Yeah.

20 Q. -- you're going to have --

21 A. Yeah. Okay.

22 Q. -- this rate grid that's never going to go down as long
23 as you keep \$50 million in the bank.

24 A. Yeah. This was, once again, when I'm trying to work out
25 the best deal I could for Gary.

1 Q. Right. And then the next part is what you described,
2 which is the -- the commissions on certain stocks in which Mr.
3 Magness was heavily invested would be a penny a share?

4 A. That's correct, because these were legacy positions, and
5 so if Gary bought or sold or -- mostly sold, then -- then he
6 would -- I would agree to do it at one cent, which was well
7 below market rate.

8 Q. Okay. And then the last bullet point is, "Mr. Magness
9 will advertise Stanford private wealth management for one of
10 the race seasons."

11 A. Exactly.

12 Q. Okay. And did you -- how did you -- how did it come
13 about that you were able to get this deal for Mr. Magness?

14 A. Because I'm pretty good at what I was doing.

15 Q. Well, I know. But, logistically, what did you have to do
16 within Stanford?

17 A. I can't remember if this went to -- who this -- I don't
18 remember who I negotiated this with. It may have been Jason
19 Green, who -- whoever -- it wasn't -- I don't recall it
20 being -- it may have gone up to Allen. I don't know.

21 But, you know, I -- I was constantly trying to negotiate
22 something better for Gary. It was good for me; it was good
23 for Gary. And -- but I was at -- this was, you know, my
24 negotiation.

25 I would -- I would think these things up, go to Gary and

1 say, This is what I'm thinking about doing; what do you think?

2 You know, he'd tell me, go do what you think is best.

3 Q. Okay. But, I mean, what you got here for him was a
4 really good deal. This isn't like just garden-variety broker
5 or garden-variety client gets a deal like this. This is
6 something you were able to work out.

7 A. This is something I worked out.

8 Q. Right.

9 A. Yes.

10 Q. And I think, as you said, the commission rate -- the
11 trading rate, for example, on the securities was -- this is
12 well below market rates.

13 A. Well, this was a good deal for Gary. It was also a fair
14 deal for Gary, because these were very large positions that he
15 had held in his family. We didn't know what we were going to
16 do with them, but these were his family positions, so -- yes,
17 it was a good deal for all.

18 Q. And did you know of any other individual investor or
19 groups of investors in Stanford International Bank that had
20 one of these special rate grids like you had negotiated for
21 him?

22 A. I don't know. I mean, I -- I only negotiated for Gary,
23 so I have no idea what else was going on.

24 Q. You just don't know one way or the other?

25 A. I have no -- no clue. What -- what anybody else did

1 is -- was, you know, very confidential amongst financial
2 advisors.

3 Q. Handing you Plaintiff's Exhibit 204. Do you recognize
4 204 as an email from Allen Stanford to yourself dated October
5 27, 2006?

6 A. Okay.

7 Q. Do you recognize the email?

8 A. No, but I'm -- it came to me, so -- do I recollect it?
9 No, but --

10 Q. Do you -- so at the end of 2006 -- I think on Halloween
11 2006, Mr. Magness invested \$30 million over three CDs --

12 A. Uh-huh.

13 Q. -- through the Trust? Do you remember that?

14 A. Uh-huh.

15 Q. Yes? Is that a yes?

16 A. Yes. I'm sorry.

17 Q. And Mr. Rodriguez is -- in the first email in the chain
18 is confirming that he has agreed to apply the rate as if these
19 were five-year fixed CDs when in fact they were four-year
20 fixed CDs. Is that right?

21 A. That's correct. That's what it says here.

22 Q. Is that --

23 A. I don't really remember why we negotiated that. But I
24 have a feeling -- well, I can't remember, but, yeah, that's
25 what it says here.

1 Q. Okay. You don't have any reason to doubt that that's
2 what happened?

3 A. What's that?

4 Q. You don't have any reason to doubt that is --

5 A. No, not at all.

6 Q. And that was an unusual request such that the president
7 of the bank had to sign off on it.

8 A. That's correct.

9 Q. And then your response to Mr. Rodriguez-Tolentino was to
10 thank him for his help, and then you're confirming when the
11 wire is going to go through.

12 A. That's what it says here, yes.

13 Q. All right. And Mr. Stanford's response, it says, "Tom,
14 tell Gary thanks for his business and that we will always go
15 the extra mile for him." Is that right?

16 A. That's what it says here, yeah.

17 Q. I mean, in your experience well up until the end, did
18 Stanford always go the extra mile for Mr. Magness?

19 A. As far as I know, he went the extra mile for me, which
20 was for Mr. Magness, which all made sense at the time.

21 Q. Please take a look at Plaintiff's 56, which is -- should
22 be in your notebook.

23 A. Okay.

24 Q. This is an email from Ms. Dokken to yourself dated
25 February 5th, 2008, and it's making an inquiry about the

1 Stanford CD program.

2 Do you recall receiving this email?

3 A. I don't recall it, but it -- it -- and obviously I read
4 it. But I think this was related to the -- or the earlier
5 comment that -- now we're getting into February of 2008, and
6 things were getting -- I say -- as I recall, the next month's
7 when Bear Stearns went down.

8 Q. Right.

9 A. So there were a lot of write-offs and there was a lot of
10 more -- and the Bear Stearns II mortgage-backed funds I think
11 had already gone under at this point, so there was a lot of
12 consternation related to investments.

13 Q. And one of the things -- well, not only those things
14 happened -- so the general state of the economy has --

15 A. Now, kind of --

16 Q. -- gone in a southward direction?

17 A. Yeah. Yeah.

18 Q. But this also follows on the inquiry you got following
19 the October 2007 meeting.

20 A. That's what I would -- that's what I would -- when was
21 that? When was that, two thousand --

22 Q. October 1st, 2007.

23 A. Right. So this is February. That would make sense.

24 Q. Okay. So it's -- is it fair to infer from the events
25 that you experienced that not only is this motivated by the

1 southward trajectory of the markets, but it's also motivated
2 by the inquiries that were made in October 2007?

3 A. I would agree with that, yes.

4 Q. And one of the things that it says the Mango Five
5 investment committee would like to know is, they would like to
6 understand -- and I'm focused on the end of the first
7 paragraph.

8 They would like to understand and review the strategies
9 and investments that the Stanford Bank certificates of deposit
10 have exposure to so that we can better understand the
11 underlying assets.

12 A. Correct.

13 Q. What did you do in response to this email from Ms.
14 Dokken?

15 A. Well, as I recall, that's when I reached out to the bank
16 to Jason Green and said this -- this inquiry has come in. And
17 the thought was that they were going to present at the next
18 board meeting.

19 Q. Let me show you Plaintiff's Exhibit 157, which is
20 your -- which is a brief response that you had to Ms. Dokken
21 to her email dated February 5th, 2008. Do you recognize that
22 response?

23 A. Let's see. Yeah, that's -- when was this? This was
24 February? Okay.

25 Q. You say, "You are certainly not alone in this request."

1 A. Uh-huh.

2 Q. What did you mean by that?

3 A. Well, at this point with the markets going down, you
4 know, every -- you had heightened concern.

5 Gary wasn't alone, and no one was alone in wanting to
6 know more detail about how -- how the -- how -- how the -- the
7 portfolio was being run, because it wasn't -- it wasn't -- you
8 didn't have perfect clarity into it.

9 So the request came in, and I agreed that we would try to
10 push to find out more about what the -- what the underlying
11 investments were and their strategies, is my -- my guess.

12 Q. And did you hear from someone else that other customers
13 of the bank were concerned about its portfolio?

14 A. You know, I can't say that specifically. But I think it
15 was universal amongst any investments, given the environment
16 where we were at, people were concerned, I think, universally.

17 Q. And I believe if we look back at -- well, you can stay on
18 that exhibit because her email's in that same exhibit.

19 She asked for a report on the status of the CDs and --
20 and that it should be sent to Tonya Dokken for inclusion in
21 the next investment committee package, and that is for the
22 next meeting.

23 A. That makes -- yeah, that's what I recall.

24 Q. And do you recall what it was that you sent to her?

25 A. I do not.

1 Q. All right. And then in March 6, 2008, if you'll turn to
2 Plaintiff's Exhibit 62, we have minutes of an investment
3 committee meeting, which I think you'll agree you were present
4 for.

5 A. I think so, yes.

6 Q. Okay. And at page 2 of the minutes, there is a
7 report -- there's a section entitled Report on Stanford
8 Certificates of Deposit.

9 What's reflected in Section 5 on page 2, is that
10 consistent with your recollection of what was discussed at the
11 meeting regarding Stanford?

12 A. To the best of my knowledge, yeah -- yes.

13 Q. Do you have any idea what Mr. Rodriguez-Tolentino meant
14 when he referred to Stanford being -- or resembling a Swiss
15 bank model?

16 A. I have no idea what that means.

17 Q. Did you have any understanding of -- of what the
18 significance of regulatory oversight was when the question was
19 raised whether Stanford was similar to a hedge fund?

20 A. I'm specu -- I mean, I don't really remember that -- that
21 part of the conversation, but what I -- but I think he's
22 referring to the fact that there was a -- a bank regulatory
23 body in the Caribbean or maybe in Antigua that was overseeing
24 the bank.

25 Q. Right. And if the implication of the question was, you

1 know, we're worried because hedge funds can go up and down,
2 and this bank to stay in business has to only go up, what
3 difference does it whether it's regulated by a government or
4 not?

5 A. Your guess is as good as mine.

6 Q. The next sentence just after the one we were talking
7 about, says that "Mr. Rodriguez stated that the bank had
8 leveraged the portfolio by a factor of 15 percent."

9 A. No. And I don't even know what that means.

10 Q. I mean, if you're going to leverage the portfolio,
11 doesn't that mean that you're borrowing against the assets in
12 the portfolio?

13 A. That -- that may be what he means, yeah. It's possible.

14 Q. That would be the way you would leverage something?

15 A. Yeah, potentially.

16 Q. All right. So if it -- if it were true that the bank was
17 leveraged against its own assets, you would expect that its
18 reports would reflect that it had some indebtedness to
19 somebody.

20 A. Possibly.

21 Q. And Stanford in its annual reports, I think as we saw
22 earlier today, included statements of its assets and
23 liabilities, did it not?

24 A. It did.

25 Q. And did anybody go and look to see whether or not it

1 reflected any liabilities to anybody other than customers?

2 A. Not to my knowledge.

3 Q. Somebody could have done that.

4 Mr. Petrie: Object to the form.

5 A. Well, any -- yeah, anything's possible.

6 Q. Well, I don't mean it in that sense. I just mean the
7 annual reports were available to you.

8 A. That's correct.

9 Q. Okay. So somebody could have picked up the annual
10 reports that were available to you and made that
11 determination.

12 A. It's -- yeah, anybody could do that.

13 Q. Yes.

14 A. That's correct.

15 Q. What was the reaction of the group to Mr. Rodriguez's
16 presentation as far as you can recall?

17 A. When was this again?

18 Q. This is in March 2008.

19 A. When did -- I -- there was another meeting, so I'm trying
20 to remember. I think every -- I think the meeting went okay.
21 I think every -- everybody at this point was -- I think. I
22 can't remember. I don't want to speculate because there
23 was -- you know, going forward from here, it gets real dicey.

24 Q. Okay. Plaintiff's 65, can you please turn to that one?
25 That should be in your notebook.

1 This is an article from Bloomberg dated January -- or,
2 excuse me, dated July 3rd, 2008, and the title of the article
3 is SEC Investigating Stanford Group Offshore CDs, Investments.

4 Do you see that?

5 A. I do.

6 Q. Do you recall hearing about this article concerning an
7 SEC investigation of Stanford in July of 2008?

8 A. I don't know if I remember it in July, but I do remember
9 it was -- that Ronald O'Brien and whatever the --
10 Charles -- or Tidwell were all -- this came up at some point,
11 and it was a buzz amongst -- in the firm.

12 Q. And approximately when do you think that was happening?
13 Close in time to this article?

14 A. I -- I can't remember. This is July of '08, so could be.

15 Q. And in -- in what -- how did the buzz within the firm
16 manifest itself?

17 A. Well, the article came out, and people were talking about
18 it --

19 Q. Right.

20 A. -- and speculating on whether or not it was -- the -- as
21 I recall, at least what we heard was that these -- these two
22 gentlemen were fired for cause within the firm, and this is
23 spilt milk. That's -- that was the -- that was the -- as I
24 recall, the -- what was coming out of management.

25 Q. They were disgruntled ex-employees and --

1 A. Yes, exactly.

2 Q. -- sour grapes.

3 A. Sour grapes.

4 Q. Did you look at the article when you looked at it?

5 A. I don't remember.

6 Q. Did you -- did you mention anything relating to the
7 article to Mr. Magness at any point?

8 A. I don't remember.

9 Q. And do you recall one way or the other about whether you
10 discussed the Bloomberg article that came out the same day you
11 were with Mr. Magness apparently in New York?

12 A. No. And I'm -- and I don't even remember the article. I
13 just remember the buzz in the office. So my -- I would say it
14 would be completely unrelated.

15 Q. Let me hand you Plaintiff's Exhibit 76.

16 Plaintiff's Exhibit 76 is an email from yourself to Jane
17 Price dated August 25th, 2008.

18 Do you know who Jane Price is?

19 A. No.

20 Q. The first email says, "Jane, Gary's wife did not get home
21 until it was too late to attend. He would like to see Mr.
22 Stanford, if possible, while he is in town."

23 Mr. Stanford was in town in August 2008 for the
24 Democratic National Convention?

25 A. Yes, I remember this now.

1 Q. Okay. And Mr. Magness asked to see Mr. Stanford while he
2 was in town?

3 A. I don't recall. I don't believe he ever -- I didn't see
4 Mr. Stanford, so I don't think -- Gary -- I don't think -- if
5 he did, I can't remember.

6 What I recall about this was I did not see Mr. Stanford.
7 And I had lunch with Juan Rodriguez and -- and a couple of
8 other people.

9 Q. But Mr. Magness wanted to see -- whether you saw him or
10 not, Mr. Magness had asked to see Mr. Stanford. Is that
11 right?

12 A. I don't recall, you know. I mean, it may have been me
13 saying, you know, Gary would like to see him if he -- you
14 know -- but I don't recall that Gary ever requested to see Mr.
15 Stanford. That could have been just my take on it.

16 Q. Okay. And let me show you Plaintiff's Exhibit 215.

17 A. Thank you.

18 Q. This is an email exchange between you and Mr.
19 Rodriguez-Tolentino dated August 25th, 2008.

20 Does this refresh your recollection that you and Mr.
21 Rodriguez-Tolentino arranged to have lunch in Denver?

22 A. Yeah. This is what I was talking about. So I did miss
23 Stanford. He was gone. And then we had lunch, as I recall.

24 Q. Okay. And then you were following up with Mr.
25 Rodriguez-Tolentino in the middle email, asking if Mr.

1 Rodriguez-Tolentino had seen Mr. Stanford.

2 A. Possibly, yeah. That's what I said, asked.

3 Q. RAS is Mr. Stanford?

4 A. Yeah. Yes.

5 Q. Okay. Did you have any specific reason for wanting to
6 see Mr. Stanford?

7 A. No. He was in town, and I'm in Denver, so --

8 Q. Let me show you the next -- let's go to the minutes of
9 the December meeting, because I think you were there.

10 A. That one I was at.

11 Q. Okay.

12 A. When did they take -- when did the Receiver come in? Was
13 that '09?

14 Q. February 2009.

15 A. Okay. Now it's getting dicey.

16 Q. Now it's getting dicey. In October of 2008?

17 A. No, in December at that meeting. There was a -- this one
18 we started to ask some questions.

19 Q. Okay. Please take a look at Plaintiff's Exhibit 92.

20 A. Okay.

21 Q. These are minutes of an investment committee meeting on
22 December 5th, 2008. Do you see that?

23 A. Yes.

24 Q. And in attendance are the members of the committee as
25 well as Ms. Dokken and yourself. Right?

1 A. Correct.

2 Q. And there's a section reflecting the reports of
3 Stanford -- Stanford certificates of deposit. And I'd like
4 you to first just read it to yourself, and then I want to know
5 if this is consistent with your recollection of what was
6 discussed.

7 A. Okay.

8 Q. Is -- are Section 4 of the minutes, which are on pages 1
9 and 2 of the minutes, consistent with your recollection of
10 what was discussed regarding Stanford certificates of deposit?

11 A. That is correct.

12 Q. There are some statements attributed to you.

13 A. Uh-huh.

14 Q. Are those statements attributed to you consistent with
15 your recollection of what you said during the meeting?

16 A. As far as I can see, yes.

17 Q. So there's a reference to what happened after the October
18 1st meeting. Do you recall whether somebody who was in the
19 October 1st meeting called you to talk about what happened in
20 the October 1st meeting?

21 A. I don't -- I don't recall. I do know that at this point
22 the market had crashed, and we were getting margin calls
23 across the board that were, I mean, significant margin calls,
24 which required us -- at one point we -- we had -- we had -- I
25 think it was U.S. Bank, we found out that the covenants didn't

1 -- wouldn't allow for margin under \$10 if the security went
2 under \$10.

3 So because of that, we had a margin call, and we were
4 scrambling to go find any money that we could find.

5 So I approached the bank to say, Listen, we may have
6 to -- we may have to get out of this; we -- we don't have a
7 choice; this is the only place we have any money, because we
8 were under margin calls.

9 So that's my recollection that I think this relates to.

10 Q. I just want to make sure I understand about the margin
11 calls. You say you didn't have any choice.

12 One possible reaction or response to a margin call is to
13 simply let the bank take and then sell the securities that are
14 securing the margin loan. Right?

15 A. Yeah, but that would be your last resort. A lot of these
16 were legacy stocks. So if you had any other opportunity to
17 try to stave off a margin call, that's what you would do.

18 Q. But in point of fact, Mr. Magness had previously used the
19 sale of the stock that was securing the margin loans to pay
20 down margin debt.

21 A. We -- we -- I know what you're getting at, but you have
22 to understand the situation at the time.

23 If -- these were legacy stock. We had to sell some. We
24 didn't have a choice. We were keeping -- we had margin calls
25 coming in every single day, so we were scrambling not only to

1 sell stock but to sell as little as possible and to go
2 anywhere we could in order to see if we could stave off the
3 margin calls.

4 Once the stock is gone, it doesn't matter if it goes back
5 up because it's gone. And there were big -- there are big tax
6 issues with that.

7 Q. So are you disputing that in the -- in the calendar year
8 preceding this, 2007, that the Magness entities sold
9 substantial amounts of stock --

10 A. Yeah.

11 Q. -- in excess of \$100 million of stock --

12 A. Sure.

13 Q. -- to pay off the margin debt?

14 A. I don't recall whether it was margin debt or -- or -- I
15 remember being involved in selling at my -- at my -- we -- I
16 think it was Liberty -- oh, geez. It was one of the Liberty
17 stocks, Liberty Interactive, I believe. And we had a number
18 of millions of shares.

19 And I think we started selling at 26, but it wasn't for
20 margin. It was -- we decided that that was -- whatever
21 reason, that we wanted to lighten some of that up.

22 You know, you've got a billion-dollar portfolio. You
23 sell and buy all the time, so -- I'm not sure what your point
24 is.

25 Q. Well, I think I was just asking a question, which is,

1 isn't it true that in the prior year, in 2007, that
2 substantial amounts of Liberty stock were -- were sold, in
3 excess of a hundred million dollars' worth, and then -- and
4 then that was then applied to paying down margin loans?

5 A. I don't recall.

6 Q. But in any event, whether it's the last resort or
7 whatever, you said there was no choice.

8 And my only question is, isn't it true that there was a
9 choice? One choice is to grab the cash from Stanford
10 International Bank, and another choice is to just let go of
11 the stock that is backing whatever particular debt is yielding
12 the margin call? That's a possibility.

13 A. There are a lot of possibilities.

14 Q. Those are the two most obvious, aren't they?

15 A. You know, those are two possibilities, yes.

16 Q. And, in fact, in this time period, that is in October of
17 2008, the sale of Liberty stock or other stocks was used to
18 pay down on tens of millions of dollars of margin debt?

19 A. Yes.

20 Q. So to make sure I understand, the person who was in
21 charge of evaluating the margin calls and -- and determining
22 the strategy for addressing them, that was not you?

23 A. If it were related -- well, if it was -- if it was part
24 of Stanford Group Company or Pershing account, if a margin
25 call came in, that would come in to Pam McGowan.

1 This was U.S. Bank. I had nothing to do.

2 Q. Right. And that was my point, is the margin calls that
3 you have been describing are U.S. Bank margin calls?

4 A. No. -- well, for the first 25.

5 Q. Okay. That was the U.S. Bank margin call, meaning the
6 decision to address whatever margin call was associated with
7 that, that was through Ms. Dokken and Mr. Magness. That was
8 on their side.

9 A. No. Actually when -- when the margin call came in, it
10 was at my -- then I said -- well, we didn't have the money,
11 so -- I mean, we were getting margin calls from the bank.
12 Gary didn't want to sell stock.

13 I said, Well, let's go -- I said, Let's go down to the
14 bank and see if we can borrow money against our CDs, which was
15 in the documents that you could do that. You could borrow up
16 to 80 percent of the value of your CD in order to pay -- to
17 pay down -- or you could borrow it up to 80 percent of what
18 the loan value was.

19 At this time, though, Gary had had a -- \$25 million in
20 profit, so we were just borrowing against what we had.

21 Q. And then after this \$25 million loan, there were
22 a -- there were -- there were three additional loans that
23 totaled approximately \$63 million.

24 Do you recall that that same month?

25 A. That sounds about right.

1 Q. And was it Mrs. -- Ms. Dokken who was responsible for
2 determining what the cash needs were for the Magness entities
3 and how to apply those funds from those loans, or were you
4 involved in that?

5 A. That -- that wouldn't involve me, as far as I know.

6 Q. October 1st, 2008, what was the -- what was the state of
7 the market?

8 A. It was -- as I recall, it was a disaster.

9 Q. Lehmann was already down by then. Right?

10 A. I think Lehmann went down in September. As I recall, our
11 worst position was in November is when we were
12 getting -- October, November was absolutely the worst for us.

13 Q. For the Magness entities?

14 A. For the Magness entities.

15 Q. Whenever the part of your market you were invested in was
16 hitting the rock bottom, that's when it was, October,
17 November.

18 A. October, November, in my recollection, that's when his
19 concentrated legacy positions got hit the worst.

20 Q. But just sort of looking on a market-wide basis, by the
21 end of September 2008, the market was already down well over
22 double digits.

23 A. As far as I recall, yeah.

24 Q. Do you know who Ryan Bell is?

25 A. Uh-huh, Ryan -- yes, I do.

1 Q. Who is Ryan Bell?

2 A. Ryan Bell was the broker of record at originally Goldman
3 Sachs, transferred to Merrill Lynch, and reported -- and had
4 a -- a great -- I think he had more assets over there than we
5 had at Stanford.

6 Q. Did you ever talk to Mr. Bell about the Stanford
7 International Bank CD?

8 A. I don't recall.

9 Q. Turning back to Plaintiff's Exhibit 92, which we touched
10 on before, in the Section 4, we were talking about the third
11 sentence says that Mr. -- or, excuse me, the second sentence
12 says, "Mr. Magness inquired how his risk could be reduced to
13 the exposure of these certificates of deposit"?

14 Do you see that?

15 A. Yes.

16 Q. And your response was that "after the bank advised that
17 redemption would not be possible at this time, GMIT," meaning
18 the trust, "borrowed from the bank against these certificates
19 in the approximate amount of 80 percent of their face value or
20 \$63 million." Right?

21 A. That's what it says, yes.

22 Q. And that's the \$63 million worth of loans that were taken
23 in the second half of October 2008.

24 A. Yes.

25 Q. And that happened after you approached the bank and were

1 advised by the bank that redemption of the CDs was not
2 possible.

3 A. My recollection of this was that they -- that we had two
4 choices. You know, you could either break the CD and get out
5 of it, or you could borrow against it. And quite frankly, I
6 didn't care which way we went.

7 Gary wanted to borrow against it because he liked the
8 rate and didn't want -- and if, in fact, the market came back,
9 he could replace -- he could pay back the loan and keep his
10 CDs.

11 Q. Now, you'd agree with me that the minutes don't reflect
12 anything like that.

13 A. I'm just telling you what I remember.

14 Q. Sure. Understood. But you would agree with me that
15 that's not reflected in the minutes.

16 A. That may not be what's reflected in here, but that's what
17 I remember.

18 Q. Right. And, in fact, after the discussion about we got
19 some of the money out, 80 percent of the money out, the next
20 sentence says Mr. Magness indicated that he would continue
21 working with you to investigate how to reduce the trust's
22 risks from these certificates of deposit.

23 Would you agree that's the opposite of he liked the CDs
24 and wanted to stay in them?

25 A. Scott, I'm just telling you, this is what I remember.

1 What's reflected in here is not the discussion I had with
2 Gary. This is what they're producing, so I can't tell you --
3 and I don't remember ever -- I mean, I've never seen these as
4 far as I know.

5 Q. What they are producing, you mean the Mango Five people.

6 A. Well --

7 Q. Right?

8 A. Yeah.

9 Q. You mentioned in response to one of Mr. Powers' questions
10 that Mr. Magness was your best friend. Do you recall that?

11 A. Yes.

12 Q. And you also mentioned that at one point -- and forgive
13 me for not having the exact context -- that Mr. Magness and
14 his companies would have been roughly 90 percent of your
15 business at one point?

16 A. I would say that's a fair estimate, yes.

17 Q. Were they a hundred percent of your business on the
18 Stanford International Bank CD side?

19 A. Yes. As it related, every CD I had was somehow related
20 to the Magness entities.

21 Q. At any point in time, did you understand that you were --
22 in terms of marketing the Stanford International Bank CDs, did
23 you understand that you were putting Mr. Magness and his
24 companies into an investment that was too good to be true?

25 A. No.

1 Q. Did you receive -- at the point when you're putting him
2 into these investments, did you have any information that
3 would lead you to suspect that that was the case?

4 A. No.

5 Q. At that point in time did you have any knowledge that you
6 were putting Mr. Magness and his entities into an investment
7 with a bank that was insolvent?

8 A. No.

9 Q. Did you have any information in hand that would lead you
10 to suspect that the bank might have been insolvent?

11 A. No.

12 Q. During the same period of time, did you have any
13 information that there was some risk that the bank was part of
14 a Ponzi scheme?

15 A. No.

16 Q. Did you know what a Ponzi scheme was?

17 A. Yes.

18 Q. Had you ever discussed with Mr. Magness what a Ponzi
19 scheme was?

20 A. No.

21 Q. Do you have any information in hand at that point in time
22 that would have led you to suspect that the bank was somehow
23 involved in a Ponzi scheme?

24 A. No.

25 Q. Did you have any belief at all that you were putting Mr.

1 Magness and his entities at risk of losing the entire
2 investment they were making?

3 A. No.

4 Q. Was this an investment that you perceived as being
5 without risk altogether?

6 A. No.

7 Q. What was the nature of the risk that you perceived at the
8 time?

9 A. I think my perception of the risk was -- I think if it
10 was run properly as it was fed is -- with market risk, had a
11 greater degree of safety because it was guaranteed by the full
12 faith of the bank, which was also guaranteed by Stanford, who
13 we believed to be a -- a very upstanding person.

14 But we -- and that's the reason why we had eight or nine
15 percent of his total net worth in the bank. So I never
16 thought there was any -- I'd never put my best friend or any
17 friend or any client, I don't care if they were an enemy, in
18 anything that I didn't think was solvent or -- or a good
19 investment.

20 Q. And I -- when you say that you would never do that, is
21 that also the case irrespective of the compensation that you
22 were able to obtain by virtue of putting a client into a
23 particular investment? In other words, it didn't matter how
24 much you were going to personally make as a commission or
25 otherwise.

1 A. Look, commissions were good, but I would never put an
2 investment -- I would never put any client in an investment
3 that I didn't think was sound.

4 Q. Did you ever personally purchase an SIBL certificate of
5 deposit?

6 A. No.

7 Q. Why not?

8 A. I didn't really have the money to do it, and I -- most of
9 the money I had, when I had a lot of it, was -- was -- I
10 traded with, because I thought I could make a lot more. I
11 wasn't looking for income.

12 Q. When you say you traded, meaning you were buying and
13 selling securities?

14 A. Buying and selling securities.

15 Q. Did you -- at any point in time when you had that money
16 and you were buying and selling securities, did you have any
17 concerns about the safety of buying an SIBL certificate of
18 deposit?

19 A. No.

20 Q. Could you look at Exhibit 27, please? Hopefully that is
21 the September 26th, '06, letter that you discussed with Mr.
22 Powers.

23 A. Wait a minute. Okay.

24 Q. In the initial paragraph of your letter to Mr. Magness,
25 you say that these proposals went all the way up to Mr.

1 Stanford.

2 Do you see that reference?

3 A. Yeah. Yes, I do.

4 Q. Did -- is this one of the things -- you mentioned you had
5 maybe a handful of conversations with Mr. Stanford.

6 Did you actually discuss these proposals with him?

7 A. No, not with Allen Stanford. This went through the
8 chain -- the chain of command.

9 Q. And what -- what was the next step up from you in the
10 chain of command in September of 2006?

11 A. It would have gone to Jason Green, probably to Danny
12 Bogar, then to Juan Tolentino. You know, then -- if they
13 discussed it with Allen, I don't know. I mean, I would -- I
14 can't remember if they did or they didn't, but I'm sure it
15 would come through them, not me.

16 Q. And then you go on to say, "He has a great respect for
17 you and your business," referring to Mr. Magness.

18 A. Yeah. Yes, they do.

19 Q. I'm sorry, he referring to Mr. Stanford, you referring to
20 Mr. Magness. Have I interpreted that correctly?

21 A. Sure, yes.

22 Q. And where did you get that information?

23 A. Where did I get the information that Allen Stanford had a
24 great deal of respect?

25 Q. Yes.

1 A. From me.

2 Q. What do you mean from me?

3 A. Well, in other words, you know, whenever we
4 would discuss -- whenever Allen Stanford would say something,
5 he's say -- of course, he respected Gary's business. I mean,
6 he was a big customer, so I was just highlighting that in this
7 letter.

8 Q. One last group of questions about Exhibit 27, sir.

9 In the first bullet point, there's a reference to a
10 Magness family rate grid. Do you see that reference?

11 A. Yes.

12 Q. Is that different from the -- a rate grid that was
13 provided to you as a financial advisor for all of the
14 customers in the institution?

15 A. Yeah. This was specifically put together by me and
16 negotiated with the bank so that as Gary grew in assets, that
17 he could earn a higher rate with more money going in.

18 Q. Did that rate grid show any sort of difference between a
19 rate that was being given to the group, so to speak, versus
20 someone else with a comparable CD deposit?

21 A. I don't know. I mean, I -- all I know is that I
22 negotiated this grid on behalf of Gary, and he wasn't -- he
23 didn't even have really much knowledge of it.

24 As we started to grow, I went back to Juan -- and who I
25 negotiated this with was Juan Rodriguez-Tolentino saying that,

1 you know, we need to give Gary a better rate if he's putting
2 more money in.

3 Q. At any point in time in your employment with SGC, was
4 there ever any pushback about giving better terms to Mr.
5 Magness because of the size of either his securities holdings
6 with the firm or his deposits into SIBL for CDs?

7 A. Pushback from who?

8 Q. Anybody internal to the institution.

9 A. Well, it was always a negotiation. I mean, they would
10 --well, there were two sides of it. I mean, I'm negotiating
11 for Gary; they're negotiating for the bank. Then we came to a
12 -- to a -- an understanding. But no one else in the firm knew
13 anything about it because it was very confidential.

14 Q. You related to Mr. Powers a conversation you had where
15 someone--I think you said it was Mr. Davis--had said to you
16 something to the effect of, I'm not going to disclose to you
17 who the investment managers are because you wouldn't get that
18 from a commercial bank, and it would -- we would lose our
19 competitive advantage?

20 A. Yeah. I think his -- his point was that when -- if
21 you're looking at a commercial bank CD, how do they -- how do
22 they generate their returns? Do you -- does anybody really
23 know? And that was his point.

24 And he said, Look, over the back -- the relationships
25 that we have with the money managers that we deal with, it

1 gives us a competitive advantage. If we tell what's in there,
2 what's to stop anybody else from doing it.

3 So it's very confidential to us, and, therefore -- you
4 know, it's a CD product, and we're guaranteeing it. So they
5 never disclosed what -- the actual positions or who held them.

6 Q. Did that make sense to you at the time he said that?

7 A. At the time, it did, yes.

8 Q. And do you -- when -- I think you used the phrase "things
9 started to get dicey in 2008." Was there any information
10 distributed to you about additional capital being put into the
11 SIB, the Stanford International Bank?

12 A. There was. There was -- I can't remember the exact date,
13 obviously, but there was a -- a report that came out that
14 Allen Stanford had put in X amount of money to bring the
15 capital requirements up for the bank during this downturn. I
16 can't remember the number.

17 But that was distributed and disseminated amongst all of
18 the people at Stanford Group Companies.

19 Q. And when that was distributed, did you ask for any proof
20 that that had in fact taken place?

21 A. No.

22 Q. Why not?

23 A. Well, because I believed in Allen Stanford. I mean, if
24 it was said and was said throughout the whole channels, I
25 believed that that was the case.

1 Q. Did -- did you ever look at the -- the returns that the
2 bank advertised and have a -- a thought that those returns
3 were not realistic?

4 A. No.

5 Q. Did you have -- have something against which you could
6 compare those returns to form an assessment as to whether they
7 were or were not realistic?

8 A. Well, you could compare them to what was going on in the
9 S&P or the Dow or, you know, emerging markets, which were all
10 these things that they were in.

11 In some years when -- as I recall, you know, the market
12 was up 25 percent; he was up -- the bank was up 14. Some
13 years -- and these were pretty -- pretty heady years. There
14 were a lot of hedge fund managers making a lot of money, so
15 it -- it seemed very reasonable.

16 Q. When you -- you told Mr. Powers that your view of the
17 SIBL structure was that it was, in essence, another type of
18 hedge fund.

19 A. That's the way I viewed it, and I think that's the way
20 Gary viewed it, which is -- you know, it was essentially more
21 of, like, a fund of funds where these individuals that were
22 managing the funds were using outside managers that were very
23 liquid and -- to -- whether it was long, short, precious
24 metals, high yield. It was a variety of different managers.
25 Collectively how many, I don't know. But that's -- and so it

1 was more of a fund of funds.

2 Q. Do you recall there was a range of investments --

3 A. Yeah. I mean, with the -- and it was -- it was -- it was
4 subjective. We were talking about subjective, objective. And
5 the fact is, it was my interpretation of where the risk would
6 fall.

7 So, you know, if you were to look at treasuries and --
8 and high-grade investment bonds, it would -- the risk of
9 the -- at the bank would fall below -- would -- would be
10 less -- would be more risky than that but not as risky
11 as -- or not have as much risk as, say, high yield bonds or
12 equities.

13 So it was in that range. Not as safe as treasuries, not
14 as safe as, say, AAA corporates but safer than high yield and
15 safer than certainly equities. But that was my
16 interpretation.

17 Q. I -- I understand.

18 And you told Mr. Powers that there was not any sort of
19 standardized rating systems like a triple B bond rating that
20 would be applied to this particular investment.

21 A. These CDs were not rated. These certificates of deposit
22 were not rated.

23 Q. Did you do -- did you have any concerns of the fact that
24 the bank was located in Antigua?

25 A. No, because there's -- I mean, Antigua, Bahamas, Caymans,

1 there are all kinds of offshore banks.

2 Q. Did you undertake any investigation as to the soundness
3 of the Antiguan banking system before discussing with Mr.
4 Magness' his proposed CD deposit?

5 A. I don't recall.

6 Q. While you worked at SGC, were you aware of any SGC
7 employees getting into disputes with the company and taking
8 those disputes to what would have then been NASD arbitration?

9 A. The only one I was aware of that was published was a --
10 was Tid -- Tidwell and -- whoever the other gentleman was.

11 Q. Were you aware during your tenure at SGC of the SEC
12 conducting any manner of investigation, not audit but
13 investigation, into the SGC company?

14 A. I don't recall.

15 Q. You referenced in your conversation with Mr. Powers when
16 you were talking about the February 2008 email from Ms.
17 Dokken. And perhaps we should pull that up as a point of
18 reference. If you can find Exhibit 56, please. Have you
19 found 56?

20 A. Yes.

21 Q. And I believe you told Mr. Powers that it was only a
22 month later that Bear Stearns went under?

23 A. I believe -- 2008?

24 Q. Yes, sir.

25 A. I believe so.

1 Q. Okay. You also told Mr. Powers that you thought or you
2 believed that as of February of '08, two Bear Stearns mortgage
3 funds had already zeroed out.

4 A. Or were under extreme duress or they had shut down, yes.
5 Two mortgage-backed funds.

6 Q. Ms. Dokken's February 5, 2008 note says, and I'm looking
7 at the end of the first line and reading from there, quote, in
8 light of the unprecedented write-offs and charges that the
9 financial community and companies have incurred in the last
10 six months related to high-yielding and mortgage-backed
11 instruments, the Mango Five investment committee would like to
12 understand and review the strategies and investments that the
13 Stanford Bank certificates of deposit have exposure to so that
14 we can better understand the underlying assets.

15 Do you see that reference?

16 A. Yes.

17 Q. Do you remember looking at the board minutes where Mr.
18 Juan Rodriguez was participating and explaining that the bank
19 operated like a hedge fund?

20 A. Yes.

21 Q. And is it correct, sir, that that was not a revelation to
22 you and Mr. Magness?

23 A. No.

24 Q. You had all figured that out sometime before that.

25 A. Yes.

1 Q. And so because that was not a revelation to you, did that
2 cause you any concern that he would say that the bank was
3 essentially a regulated hedge fund?

4 A. No.

5 Q. Did you have any different perception of the risk of
6 investing in the SIBL CDs in light of Juan Rodriguez's
7 comments that it was essentially operated as a regulated hedge
8 fund?

9 A. No.

10 Q. Well, did -- are you aware of Mr. Magness undertaking
11 some effort to say, I'm just going to take as much money out
12 of SIBL as I possibly can?

13 A. No.

14 Q. You -- you sort of looked at me like that's a crazy
15 question. Why did you give me that look?

16 A. I mean, at what point -- I don't even know the frame of
17 reference at what point -- you know, it was -- I don't
18 know -- the only -- the only thing I -- I can tell you is that
19 we were taking or borrowing money from those CDs to pay off
20 margin calls.

21 Q. And the -- when did the margin calls reach a level where
22 it became a -- at least from your perception, a cash crunch
23 for Gary Magness and the companies?

24 A. I'd say starting in the end of Sep -- after Lehmann, so
25 late September, October, November.

1 Q. And Mr. Powers asked you a bunch of questions about,
2 couldn't you just sell stock and avoid having to dip into the
3 CDs in some way.

4 Do you remember discussing that topic generally?

5 A. I do, but it was our -- it was -- it was our estimation
6 that this would not last, so the last thing we wanted to do,
7 as I stated before, was to sell stock for two reasons: one,
8 it's gone, never has a chance to go back up; and, two, the tax
9 implications for Gary were -- were severe.

10 Q. I know this will sound a little perverse.

11 But as the price of the stock drops, don't the tax
12 implications lessen?

13 A. Not when you've got a penny -- not when you're -- not
14 when you're -- yes, it does. But when you -- when the cost
15 basis on a lot of these stocks were \$1, it's got drop to \$1
16 before it doesn't become an issue.

17 Q. Was there any point in time when there was a discussion
18 internal to SGC about how the Securities and Exchange
19 Commission was looking at the commission structure for the CDS
20 and saying this doesn't make sense?

21 A. I don't -- I don't recall that.

22 Q. Anyone ever come to you and say, The commissions you're
23 receiving on the Stanford International Bank CDs that Mr.
24 Magness and his entities had deposited funds into didn't make
25 seasons financially?

1 A. No, not that I'm aware of -- or not that I recall,
2 anyway.

3 Q. Now, on your securities side of the house when you're
4 buying and selling stocks for a customer, is it correct that
5 on the customer's statement there is an actual disclosure of
6 the commission charge on any particular securities
7 transaction?

8 A. Yes.

9 Q. Is there a similar type of disclosure that takes place on
10 the financial reporting for the Stanford International Bank
11 CDs?

12 A. Not that I'm aware of.

13 Q. And did you ever -- on behalf of any one of the Magness
14 entities that had deposited funds into the certificate of
15 deposit, did you ever ask Stanford International Bank to
16 somehow deviate from its policies and procedures to
17 accommodate a need that any one of those entities had?

18 A. Not that I'm aware of.

19 Q. Are you aware of whether Stanford International Bank ever
20 did deviate from its policies and procedures to establish
21 loans with any of those three entities?

22 A. Not that I'm aware of.

23 Q. Did anyone at the bank ever say to you, Gee, we're kind
24 of shortcutting some of our policies, or words to that effect?

25 A. No, never.

1 Q. We were talking some about Prairie Capital and the
2 fund-of-funds concept. One of the funds in which Mr. Magness
3 or one of his entities had invested was something called
4 Tontine.

5 A. Yeah.

6 Q. Do you recall that?

7 A. Tontine Partners.

8 Q. So that is something you remember.

9 A. Oh, yeah.

10 Q. That was not a good investment, was it?

11 A. It was a disaster.

12 Q. Okay. One of the funds in which Mr. Magness or one of
13 his entities had invested was something called Tontine.

14 A. Yeah.

15 Q. Do you recall that?

16 A. Tontine Partners.

17 Q. So that is something you remember.

18 A. Oh, yeah.

19 Q. That was not a good investment, was it?

20 A. It was a disaster.

21 Q. Okay. Does that refresh your memory as to whether you
22 made any effort to redeem funds from Tontine because of the
23 disastrous experience there?

24 A. Well, I mean, from -- the -- they were all -- they all
25 had lockups, so it didn't -- as I recall, we -- we would have

1 tried to get money anywhere we could.

2 But we were -- they locked up so you couldn't get to
3 them.

4 Q. But you at least tried to withdraw --

5 A. Oh, we've tried -- we tried everywhere to get money
6 anywhere we could, but everything was locked up, to the point
7 Gary would never darken another hedge fund's door.

8 Q. And this -- and when you talk about trying to get funds,
9 are you still referring to the October-November time frame
10 when the market was --

11 A. To the best of my recollection. I mean, to that point,
12 we even -- we closed out a fund at HSBC to retrieve money from
13 that. I think we had 10 million in that. We went after a
14 real estate fund that Prairie Capital had us in. We -- we
15 went the gamut.

16 Q. Take a moment and look at Exhibit D-19 and confirm for me
17 that that's an email Beau Wehrle of Prairie Capital sent to
18 you on December 14th of 2007.

19 A. Okay.

20 Q. I'm hoping you can help me with the sentence that
21 immediately follows the chart, box, whatever we want to call
22 it. It says, I'll quote, "As you can see, the entire
23 portfolio has outperformed each major relative index YTD,"
24 meaning year-to-date -- right?

25 A. Uh-huh.

1 Q. Is that a yes?

2 A. Yes.

3 Q. "-- with less downside volatility for the month of
4 November largely due to the downside attribution associated
5 with the hedge fund allocation."

6 Can you tell me what that means in layperson-speak?

7 A. Let me read it again.

8 Q. Of course.

9 A. Well, I think what he's talking about here is that, you
10 know, hedge fund managers, by nature of what they do, hedge
11 their portfolio. So if they're hedged, you would expect that
12 manager or the hedge fund managers or that allocation of hedge
13 fund managers to outperform the S&P, which is not hedged.

14 Q. Are you aware of any allegations that Tontine was a fraud
15 or a Ponzi scheme of some sort?

16 A. No.

17 Q. Are you aware of any allegations that Prairie Capital was
18 in those categories?

19 A. Absolutely not.

20 Q. Did you have any conversations with Mr. Wehrle or anyone
21 else at Prairie Capital about what specifically Tontine had
22 done in order to obtain a year-to-date performance, as shown
23 here, that exceeded or outperformed each of the major relative
24 indices?

25 A. No. Not that I recall, anyway.

1 Q. So it's fair to say you understood that would not be
2 information that the hedge fund would necessarily share?

3 A. No.

4 Q. No, that wasn't your understanding?

5 A. No. I mean, I -- I have no recollection of ever knowing
6 exactly what Tontine was doing.

7 Q. Did you make any effort to find out exactly what Tontine
8 was doing?

9 A. I don't recall.

10 Q. Did you have an understanding that that information was
11 something Tontine would provide if you had asked for it?

12 A. I don't recall.

13 Q. Is it true that for most of the hedge funds in which you
14 were investing, that you didn't know what the funds were
15 investing in?

16 A. That would be a fair statement.

17 Q. And that that information, even if you had asked, was not
18 information that was available from the hedge funds?

19 A. For the most part, that is true.

20 MR. PETRIE: That's the end of this volume, Your
21 Honor. I see that we are close. We can either start the next
22 one or pause here.

23 THE COURT: Oh, why don't we keep going another ten
24 minutes or so.

25 MR. PETRIE: Certainly. Thank you.

1 Q. And you will recall that when we were in the October 2008
2 time frame, that's when the Magness defendants were taking
3 these loans against their Stanford CDs. Do you recall that?

4 A. Yes.

5 Q. And then you obviously played a role in that process.

6 A. I did.

7 Q. And could you explain to me in Plaintiff's Exhibit 217
8 what it is they were looking at?

9 A. (Reviewing)

10 Q. And to put it in context, as of October 10th, 2008,
11 that's when the first \$25 million loan was taken by the
12 Magness defendants.

13 Is it -- is it fair to infer that you're having an email
14 exchange with Mr. Juan Rodriguez-Tolentino on October 7, 2008
15 about setting up that loan?

16 A. I have no idea what this is about. I have no
17 recollection.

18 Q. Sure. What did you do to facilitate the first \$25
19 million loan to the Magness defendants? What steps did you
20 take?

21 A. As I recall, I was actually in the office of Tonya
22 Dokken, and we were discussing the problem that had just
23 arisen with U.S. Bank. We had come to the knowledge that the
24 securities that were held there were -- were not marginable
25 under \$10. So -- which we thought we had a \$6, just as you

1 would at any securities firm, but in the covenants that were
2 written, it was a \$10. So we had a very large margin call.

3 And at that time it dawned on me, I said, you know, we
4 can borrow from the bank, let me make a call, which I called
5 Juan Tolentino, and he had indicated that they had reserves at
6 the Bank of Toronto -- Toronto-Dominion, and that he would see
7 what he could do to facilitate a loan to Gary to
8 cover -- well, he didn't know what the reason was, but we
9 needed the money. So that's the conversation that I recall.

10 Q. You said he said there were some reserves at the bank at
11 Toronto-Dominion. What would be the relevance of the
12 existence of reserves at Toronto-Dominion?

13 A. Which would mean that he had cash on hand that he could
14 facilitate the loan -- an immediate -- I mean, this wasn't
15 something that we were trying to get over two weeks. This was
16 something that we needed the next day if we could get it.

17 Q. The bank routinely advertised in its annual reports that
18 it had several hundred million dollars sitting in cash at any
19 given time. Right?

20 A. I do not recall.

21 Q. And, in any event, the bank's consistent advertising was
22 that the bank was highly liquid. Right?

23 A. With securities, yes.

24 Q. Okay. So was it surprising to you that Mr.

25 Rodriguez-Tolentino wanted to especially note for you that the

1 bank had liquidity right at that moment, that it could fund a
2 \$25 million loan?

3 A. No.

4 Q. It did not surprise you.

5 A. Didn't surprise me, no.

6 Q. Did Ms. Dokken say anything about that?

7 A. No. Well, she was happy.

8 Q. Let me show you Plaintiff's Exhibit 221.

9 This is an email exchange between yourself and Mr.
10 Rodriguez-Tolentino dated October 9th, 2008, the day before
11 the loan documents were executed and the money was wired.

12 Do you recognize it?

13 A. No, I don't recognize it.

14 Q. Mr. Rodriguez-Tolentino says he's going back to Treasury
15 and he cannot commit, and the subject line is "25 million."
16 Do you see that?

17 A. I do.

18 Q. And then your email back to Mr. Rodriguez-Tolentino, you
19 say, "Are we still good on the 18 million?" Do you know what
20 that's about?

21 A. I believe 18 million was our margin call.

22 Q. I see. And you were going to take the \$25 million --

23 A. Because the next day we probably would have another one.

24 Q. So if we take the -- the previous email that's dated
25 October 7th -- right? That is the email --

1 A. October 7th, yes.

2 Q. And now on -- on October 9th the bank is trying to
3 determine whether it has the resources to fund a \$25 million
4 loan. We're -- we're now 48 hours ahead in the timeline, just
5 doing the math. That's right?

6 A. Uh-huh.

7 Q. Yes?

8 A. I -- I suppose so, yes.

9 Q. Okay. Does it strike you as odd that a billion-dollar
10 or, excuse me, a \$7 billion bank would have to deliberate so
11 heavily on a \$25 million loan?

12 A. No, not at all. This was a special -- this was something
13 that we needed immediately. How long does it take you to get
14 a loan? I mean, it's a little different. So, no, it didn't.
15 It didn't surprise me at all.

16 Q. Now, let's -- just to be clear, this is a loan that is
17 secured by cash assets that Mr. Magness and his entities had
18 already put into the bank. Right?

19 A. That's correct.

20 Q. So when the \$25 million is coming out, that is secured
21 against a CD that is already sitting at the bank.

22 A. That's correct.

23 Q. So this is not like a situation where a stranger shows up
24 to the bank and says, I'd like to take a \$25 million loan.

25 This is a different situation.

1 A. That's correct, but this is also, you know, trying to get
2 it in 48 to 72 hours, which is by -- is Herculean in -- in
3 anything that we do in my industry.

4 Q. And so the bank -- what you're saying then is the bank
5 was going above and beyond what is normal for this kind of
6 loan.

7 A. I'm saying that they -- they went to -- they went to the
8 -- they -- they were able to facilitate loaning against our
9 securities timely, which was in our best interest at the time.

10 Q. And you found that to be extraordinary, that they were
11 doing that on such a short time frame.

12 A. I found it to be very -- I found it to be very
13 accommodating. Let's put it that way.

14 Q. Which is why, in both of these exhibits we have seen,
15 you've referred to Mr. Rodriguez-Tolentino twice as
16 "superman."

17 A. That would be correct.

18 Q. And if there was an issue at the -- at the U.S. Bank
19 regarding these Liberty C -- Liberty shares and there being a
20 \$10 floor as opposed to, I think what you described as a more
21 normal \$6 floor, is another way that you could have dealt with
22 the margin call situation to move those Liberty shares to
23 another brokerage house.

24 A. Yeah, probably, but not in a timely fashion. I mean, if
25 you even -- if you want to do ACAT shares --

1 Q. Yes.

2 A. -- it'd take you five -- and particularly in this
3 environment, it could take five to ten days. And you had to
4 also, because of the size of those positions and the
5 concentration in those positions, there -- it would
6 be -- they'd have to be -- they'd have to be vetted and agreed
7 upon before even moving because of concentrated position
8 problems. So --

9 Q. What do you recall about the circumstances that led to
10 the \$63 million in loans that took place in the latter half of
11 October 2008?

12 A. Well, our margin calls were continuing to pour in. Now
13 they were powering in from other areas, and what I recall was
14 that there was a discussion -- I was a part of some of it, not
15 all of it.

16 Some of the discussion was that, you know, we still could
17 borrow from the bank on our 80 percent loan-to-value or
18 borrow-to-value. And it was decided, not by me but by Tonya
19 Dokken, to go ahead and -- and -- and inform the bank that we
20 were going to -- we were going to borrow up to the limit that
21 we were allowed to.

22 Q. I think you do have a Plaintiff's Exhibit 95 --

23 A. Yes.

24 Q. -- do you not? This is an email from yourself to Tonya
25 Dokken and I think Gary Magness dated December 23rd, 2008. Is

1 that right?

2 A. Looks that way.

3 Q. And you're forwarding a copy of the Stanford
4 International Bank monthly report from December 2008. Is that
5 correct?

6 A. Well, I guess. I don't know.

7 Q. Take a look at the second page and tell me if that looks
8 like that's what that is.

9 A. Uh-huh.

10 Q. And, historically, Stanford International Bank had sent
11 quarterly reports. Is that right?

12 A. I don't recall.

13 MR. PETRIE: The next one's long.

14 THE COURT: Okay. Then we'll take our morning break
15 and see you back at five till 11:00.

16 (Whereupon, the jury left the courtroom.)

17 MR. PETRIE: Move to admit Exhibit 95. It hasn't
18 been addressed yet.

19 MR. SADLER: No objection.

20 THE COURT: It's admitted. Did you-all --

21 MR. SADLER: Yes, on the time?

22 THE COURT: -- figure out on the time?

23 MR. SADLER: Yes. So for the two, Tolentino and the
24 Davis, all together it's 55 minutes for the defendants and 27
25 for the Plaintiff for those three.

1 THE COURT: For both of them?

2 MR. SADLER: Well, there were -- yeah. So all of
3 Tolentino and all of Davis.

4 THE COURT: 27.

5 MR. SADLER: 27, plaintiff. 55, defendant.

6 THE COURT: Okay. Good. Anything else we need to
7 take up?

8 MR. PETRIE: No. Thank you.

9 MR. SADLER: No, sir.

10 THE COURT: How much more of Espy do we have?

11 THE VIDEO TECHNICIAN: It will take us through
12 lunch, Your Honor.

13 THE COURT: Through lunch?

14 THE VIDEO TECHNICIAN: Right up to -- right up to
15 12:30.

16 THE COURT: Okay.

17 THE VIDEO TECHNICIAN: Maybe a little bit beyond,
18 but not much.

19 THE COURT: Okay. Very good. We'll see you-all
20 back at five till.

21 (Brief recess.)

22 THE COURT: All set?

23 MR. SADLER: Yes, sir.

24 MR. PETRIE: Yes, sir.

25 (Whereupon, the jury entered the courtroom.)

1 THE COURT: Be seated.

2 I understand we've got enough to go a little past 12:30
3 to finish this deposition, so I think it's better to push
4 lunch back a little bit and wrap it all up. So the lunch
5 break is probably going to be a few minutes later than 12:30
6 today.

7 So let's proceed.

8 THOMAS ESPY, BY VIDEOTAPE DEPOSITION, continued,

9 Q. Do you recognize Plaintiff's Exhibit 98?

10 A. I don't recognize it, no -- oh, wait a minute. Excuse
11 me. Let me read it.

12 Yes, I recog -- I definitely recognize this because I
13 wrote it.

14 Q. Okay. So this is a letter dated January 13th, 2009.
15 It's signed by Steve Knudson, Trustee of Mango Family Five,
16 and it's --

17 A. That's correct.

18 Q. And it's addressed to Mr. Juan Rodriguez-Tolentino.

19 A. That's right.

20 Q. Okay. Now, you wrote this letter.

21 A. I did, and I had Steve sign it.

22 Q. Tell me what led to the crafting of this letter.

23 A. Well, this was in January. There were two things going
24 on: One, we were headed -- there was a -- whatever they
25 called it, their big conference meeting or quarterly

1 conference meeting that was being held in, I believe,
2 Scottsdale, Arizona.

3 And I hand-delivered this letter to Juan Rodriguez
4 because, at this point in our meeting in December and
5 subsequent conversations, I became concerned that we didn't
6 have -- we weren't getting the visibility that we needed, we
7 weren't -- so we really were grilling down on -- and
8 particularly I was, because I was very -- I was -- you know,
9 everybody wanted visibility in the markets, and we
10 weren't -- and now we wanted to know what's going on, what's
11 -- what is the company invested in?

12 There was -- and so this was delivered to --
13 hand-delivered to Juan at the meeting.

14 Q. And what particular -- what in particular was concerning
15 you about the lack of visibility, at this time, that led you
16 to generate the letter of January 2009?

17 A. Well, at this point Gary and I had already been -- we
18 were -- there was two things that happened. There was
19 something that came out from the -- there was a report from
20 the bank saying it was down \$110 million, which didn't make
21 sense to me. I -- so Gary -- I hadn't had a chance -- I had
22 missed it for a month or two. I don't -- I don't remember
23 exactly when I saw it, but I think it was early, mid -- might
24 have been mid December. And so that made me question. The
25 only way that could happen is that they had to have a short

1 position.

2 So Gary and I were in the Bahamas -- or in Mexico for --
3 for Christmas, and I had said to Gary, I said, Gary, you know,
4 I'm concerned about this. We need to -- I want to see if we
5 can get more visibility into the bank.

6 And this meeting was coming up, so I sat down with Steve
7 and said, Here are the questions and the concerns I had
8 and -- and I'd like to see it, in which everybody said, Good,
9 go see if we can find out.

10 Q. So I just want to make sure I understand. What you --
11 what you did at this time to generate this list of questions,
12 you were comparing Stanford's results with the returns in the
13 market and you were seeing a disconnect.

14 A. I was -- I was -- well, I mean, the disconnect, we -- you
15 know, there was a lot of talk about they had short funds and
16 all these other -- the only way this could have worked out
17 that they were only down 110 million by this time is that they
18 had to have -- they had to have short funds or something in
19 that portfolio, because we couldn't look into the portfolio.
20 So this was the reason for the letter.

21 Q. I mean, by this time if you're only down \$110 million --

22 A. It didn't make sense.

23 Q. The market's down 40 percent.

24 A. It didn't make sense at this -- at this point when they
25 reported that and I discovered it, then it was -- then my

1 radar went up, which I immediately started to report to the
2 Mango Five.

3 And we had already had a -- I think we had had our
4 December meeting, which we were all pretty proud of Stanford
5 at that point. But, you know, by the end of December, I
6 started to get worried when I -- when I saw returns that
7 didn't make sense.

8 Q. I mean, you probably have to be short in the entire
9 market, like your entire portfolio is shorted.

10 A. When -- when I finally saw the hundred million, I said,
11 this doesn't make sense, we need -- we need to explore this
12 further. And you got to remember, at this point we're two
13 months before the place shut down. So I did my best to
14 try -- like I said, I hand-delivered this letter, and Juan
15 said to me, We will look into it.

16 You know, he -- he kind of gave me the runaround, so --

17 Q. So what you -- the -- the thing that you did, that is,
18 compare market returns to the type of portfolio that was
19 explained by Stanford to the public, would it be fair to say
20 you could have done that same exercise in September or in June
21 of 2008?

22 A. I didn't.

23 Q. You did not do that.

24 A. I didn't have the returns until December, so I didn't
25 know what -- what they were -- what they were purporting to be

1 down until December. So there isn't -- there was no way for
2 me to -- to compare them.

3 Q. But if you had had the returns, if you had had Stanford's
4 returns available to you at earlier times in the process, you
5 have -- you could have done that same exercise, that is, you
6 could have compared the state of the market to what Stanford
7 was claiming.

8 A. But I didn't.

9 Q. You did not do that.

10 A. I did not.

11 Q. If you had that information available to you --

12 A. I'm not going to answer that question, Scott, because I
13 know where you're going with it and it's -- I did not look at
14 it, did not know what the returns were until December. So
15 it's a moot question.

16 Q. That's Plaintiff's Exhibit 70.

17 A. Okay.

18 Q. This is an email you're forwarding to Tonya Dokken and
19 Brian Kaufman July 27, 2008. Correct?

20 A. Right.

21 Q. And this email says that it's sent on behalf of the
22 chairman and the board of directors of the Stanford
23 International Bank. Do you see that?

24 A. Yes.

25 Q. And the report from the chairman and the board is that

1 the bank has sustained the largest half-year growth in its
2 history. Do you see that?

3 A. Yes.

4 Q. Now, by July 2008, the markets hadn't bottomed out, but
5 they were certainly going in the wrong direction. Would you
6 agree with that?

7 A. They were under stress, yes.

8 Q. The first -- the first line of the email from the
9 chairman and the board of directors recognizing that there are
10 "...turbulent world economic conditions --"

11 A. Right.

12 Q. "-- falling markets, and unending news of collapsing
13 financial institutions..."

14 A. Uh-huh.

15 Q. And that's what that email says.

16 A. Yes.

17 Q. And there's even a reference to a capital contribution,
18 if you look at the third -- the line -- the third from the
19 bottom of the second paragraph --

20 A. Yes.

21 Q. "...an injection of \$35 million of capital in February
22 2008." Do you see that?

23 A. I do.

24 Q. And then the very next line says that the bank had
25 positive earnings for the first six months of the year,

1 totaling \$16.2 million. Right?

2 A. Yes.

3 Q. And turn to the very last page of the exhibit. And I
4 want to focus your attention on the financial and economic
5 highlights --

6 A. Okay.

7 Q. -- at the bottom of the page. And if you look the -- the
8 bottom left corner, you see year-to-date earnings. What are
9 the year-to-date earnings there?

10 A. A loss of 110 million.

11 Q. Right.

12 A. Right.

13 Q. So what I'm just trying to correlate between Plaintiff's
14 95 and Plaintiff's Exhibit 70, we see year-to-date earnings in
15 both places. The kind of reporting that was important to you
16 in Plaintiff's Exhibit 95 is the kind of reporting you had in
17 Plaintiff's Exhibit 70. I understand the results are
18 different, but you had the same kind of reporting available to
19 you in July --

20 A. One's a letter. This is in the -- they're different
21 reporting. One's a letter, and this is in a financial
22 economic data. And whether I looked at this, my mood in -- in
23 July was much different than my mood in December.

24 Q. What you're getting in Plaintiff's Exhibit 95 is a
25 reporting of year-to-date earnings. Correct?

1 A. I suppose.

2 Q. Okay. And what you're getting in Plaintiff's Exhibit 70
3 is a reporting of year-to-date earnings.

4 A. Yeah.

5 Q. Okay. That's -- that's what I wanted to know.

6 They're in different forms. One is in a chart, and the
7 other one is in text, but it's the same type of information.

8 A. I suppose, yeah. I don't know what your point is, but --

9 Q. All right. Let's turn back to Plaintiff's Exhibit 98,
10 which is the letter that you drafted and that Mr. Knudson
11 signed.

12 A. Okay.

13 Q. There is a list of six questions. How did you come up
14 with the questions?

15 A. I don't recall.

16 Q. Well, let's go through each of the questions, and I just
17 want to ask why they were important to you.

18 So the first one was: "What are the current number of
19 fund managers that comprise SIBL's portfolio?"

20 What was -- what was the importance of that question?

21 A. We wanted to know -- I think at the time I wanted to know
22 how many portfolio managers were in the fund.

23 Q. Do you remember if you had gotten any information about
24 that in the past?

25 A. I hadn't.

1 Q. The second one is: "Given the Madoff scandal, is there
2 any plans to publish those fund managers?"

3 What was the importance of that question?

4 A. Well, obviously, I think my point was that, you know,
5 Madoff had already broke, and that was, you know, something
6 that was on everybody's mind, including the people at this
7 -- that, you know, of my group, you know.

8 The way to -- the way to dispel any -- any -- any
9 problems with the Madoff thing is, was publish the -- publish
10 -- let's publish the fund managers. If you have short
11 managers, you have long managers, who are they,
12 let's -- let's -- let's do -- we need visibility and
13 visibility into what is actually in the fund.

14 Q. The third question is: "Does CAS Hewlett and Company
15 physically meet with the overseas fund managers to reconcile
16 funds on behalf of SIBL?"

17 Who is CAS Hewlett and Company?

18 A. I thought that was the -- the accountant or the auditor
19 of the --

20 Q. And why would you want to know whether the auditor was
21 meeting?

22 A. I read somewhere, as it related to Madoff, that -- that,
23 you know -- there -- there was some article that I read where,
24 you know, that -- that independent -- you could have
25 independent fund managers to meet this, and you had to go

1 physically meet them and do their due diligence. So that's
2 why I was asking the question.

3 Q. And when did you read that article? Was it close in time
4 to this letter?

5 A. I have -- I have no recollection. I just I remember that
6 in some fashion.

7 Q. And then the next question is: "Does SIBL require
8 outside fund managers to appoint independent administrators to
9 their operations?"

10 A. That was from the same article.

11 Q. The next question is: "What individuals at SIBL have
12 investment authority, be it bank officers and/or SIBL board
13 members?"

14 A. I don't remember. It sounded like a good question at the
15 time.

16 Q. And the last question is: "Given the product sector
17 currency and alternative investment strategies, how did SIBL
18 investments only decline less than one percent through
19 November 30th, 2008?"

20 A. Well, that's obvious. That came from -- once I figured
21 out that -- once they reported and I saw that they had only
22 lost a hundred million, the only way that could happen is that
23 they would have had to have substantially short managers in --
24 in -- in the portfolio.

25 Q. I think in the last deposition, you -- you talked to Mr.

1 Petrie about the idea that you would not have gotten a friend
2 or a client or even an enemy into an investment that you
3 thought was unsound --

4 A. That's correct.

5 Q. -- or with an institution that was insolvent.

6 A. That's correct.

7 Q. Can we infer that if you felt like you had gotten
8 somebody into an investment that was unsound or insolvent,
9 that you would do everything you could to get that person out
10 of that investment?

11 A. Yes.

12 Q. So did you ever receive any written response to this
13 letter, that is, Plaintiff's 98?

14 A. Nothing, that I recall anyway.

15 Q. And there was a phone call set up about two weeks later
16 for -- it was set up earlier, but then it took place two weeks
17 later with Mr. Rodriguez-Tolentino and Mr. Davis. Correct?

18 A. Yeah. Concern -- I -- we didn't -- I don't remember any
19 correspondence, but this letter. Then we set up a special
20 call.

21 Q. And what do you recall about what happened on that call?

22 A. Well, on that call it was -- it turned out that -- I
23 believe on that call, if my memory serves me correct, it was
24 Juan, and interestingly -- what was Davis' name, first name?

25 Q. Was it Jim Davis?

1 A. Jim Davis. Jim Davis was on the call and I think Laura
2 Pendergest might have been on the call, which we -- we didn't
3 know that they were going to be on the call. The call was
4 supposed to be, I thought, just Juan trying to answer some of
5 the questions that kind of we had asked for out of this
6 letter.

7 We're -- and, I mean, it was -- actually, it was, I mean,
8 a fairly convincing call, to the point where I think Gary was
9 satisfied, Ray Sutton was satisfied, Tonya was satisfied, and
10 I was not satisfied.

11 Q. Why were you not satisfied?

12 A. Because, you know, it was my job to, really to try to,
13 you know, to watch it a lot more closely than these guys did.
14 And when he told me that there was a private equity in an
15 island, as I recall, that was involved in now the makeup of
16 the bank, at which time after the conversation, after the
17 conversation, I made calls to Ray and said, we -- this
18 doesn't -- this isn't flying, this is not right. This isn't
19 working right. This isn't the way it's supposed to be. Did
20 anybody hear this? I think we need to get everything out of
21 the bank.

22 Q. What -- what is it that makes you say that Gary and Ray
23 and Tonya were all satisfied?

24 A. Because no one made -- no one raised any questions after
25 the -- after the call. I -- I did. I mean, Gary's position

1 was he loved having that -- he liked getting his CD rates.
2 And one of the reasons why he borrowed and versus breaking the
3 contracts, because he fully intended --

4 You got to understand where we were in our thought
5 process. Nobody knew the market was going to melt down like
6 it was going to. So, you know, the thought was, this
7 will -- this, too, will bounce back, I'll pay off the -- I'll
8 pay off the CDs, or I'll pay the loans back and my CDs are
9 still in place.

10 So, you know, at this point, now we're really -- I'm
11 nervous, anyway, and that's when I brought it to their
12 attention, well, this is not -- this is -- we've got an island
13 in private equity in something that's not supposed to be
14 there.

15 Q. Let me ask you about that concept of not wanting to break
16 the CDs because he likes the rate and so forth.

17 Isn't it true that he had a signed agreement from
18 Stanford saying that his rates would never go down?

19 A. I don't recall that. Well, I mean, for the life of the
20 CD?

21 Q. That he would -- that he would have this fixed grid. You
22 recall that? He'd put in another \$30 million into the bank --

23 A. Yeah, of course, but --

24 Q. -- to secure this fixed grid, they would never go down?

25 A. It would never go down as long as the -- until the CD

1 matured.

2 Q. As long as he has \$50 million in the bank, he's secured
3 on this grid. Right?

4 A. No. He's secure on the grid until the CD matures. So
5 when the CD matures, then we start all over again.

6 Q. The proposal is, on Plaintiff's 27, in the second hollow
7 bullet point, "The rate grid will be guaranteed to never go
8 down as long as the Magness family or its affiliates, trust or
9 foundations, in aggregate, have deposits on hand at Stanford
10 International Bank in excess of \$50 million."

11 A. Where do you see this?

12 Q. This is the second subbullet point.

13 A. Maybe I'm on the wrong page.

14 Q. Which exhibit are you on?

15 A. I'm at 27.

16 Q. You're on Defendants' 27. I'm sorry. Take that notebook
17 off, and I think it should be in the notebook that that
18 notebook was on top of.

19 A. Okay.

20 Q. This is the letter dated September 26, 2006, regarding
21 the Magness family proposal that dealt with the rate grid and
22 advertising in the Baja racing season. Do you recall our
23 discussion about it?

24 A. Uh-huh.

25 Q. And the second subbullet under "proposal" begins, "The

1 rate grid"?

2 A. Yeah. That was obviously a mistake because that's not
3 what the intention was. As long as the CDs were there -- I
4 wrote this, so that's my -- my mistake.

5 Now, this isn't -- I mean, I don't recall -- I mean, as
6 long as they had -- because market conditions change. As long
7 as they had 50 million in it, his rates won't go down while he
8 has the CDs in place. So if the CDs were to be broken and
9 under 50 million, of course, the rates -- the rate will change
10 to whatever it was.

11 So that's a misinterpretation.

12 Q. The words on the page say: "The rate grid will be
13 guaranteed never to go down as long as the Magness family or
14 its affiliates, trust or foundations, in aggregate, have
15 deposits on hand at Stanford International Bank in excess of
16 \$50 million."

17 That's --

18 A. Right.

19 Q. -- what it says.

20 A. While -- while the CDs are current. So what -- what
21 you're reading is something I wrote, but that -- that
22 doesn't -- that doesn't mean at all that if they pulled the
23 CDs or the CDs matured -- I mean, once they're matured, then
24 it's a different rate schedule.

25 So I wrote this. I just didn't write it accurately.

1 Q. So what you're saying is --

2 A. That's what the whole grid was --

3 Q. -- Gary Magness --

4 A. That's what the grid was set up for. So once he reached,
5 you know, 50 million -- now, if he pulled out 50 -- if, say,
6 well, all right, so the CDs are in excess of 50 million and he
7 decides to break a CD, because they're all five-year CDs, and
8 he goes below 50 million, then there -- it would change.

9 Q. Sure. But if he kept at least \$50 million in some CD or
10 collection of CDs, the very next CD --

11 A. Would be completely different.

12 Q. It would be on this rate grid.

13 A. Well, you're -- this is in -- this was for the time that
14 the CDs were in play. What -- we had bought -- this is --
15 when was this written?

16 Q. September 26, 2006.

17 A. September 26. Right. So the grid was there for a
18 reason, which is saying we're going to get you this rate as
19 long as you have 50 million in place.

20 Q. Right.

21 A. But that's only for the life of the CD. So when the CDs
22 all matured, it would be -- at least my understanding of it
23 was that it wouldn't be -- it would be a different
24 negotiation.

25 Q. So what's -- what is then special about this deal?

1 Because --

2 A. What's special about this deal is that we were getting a
3 higher rate because of the volume we had in it, so --

4 Q. All right. But --

5 A. -- for the life of the CD.

6 Q. But the way the CD is structured, this is a fixed income
7 product.

8 A. For five years.

9 Q. Yes. And so --

10 A. And we were very tight.

11 Q. It's guaranteed to never go down as a consequence of the
12 CD product --

13 A. Right --

14 Q. -- not --

15 A. -- for five years.

16 Q. -- not as a consequence of this agreement.

17 A. Well, for five -- well, for five years whatever -- when
18 we put all this in, the -- the idea was the grid -- the idea
19 was that Gary -- I mean, Gary -- I was negotiating the best
20 rate I could for Gary. So as long as he had X amount of money
21 over \$50 million, he would -- you know, he wouldn't have to
22 worry about his rate changing.

23 Q. Sure. But he wouldn't have to worry about his rate
24 changing because he has a CD that has a rate that's on the
25 face of the CD.

1 A. Well, I don't know. I mean, you may be right, you may be
2 wrong, but I'm just telling you what I thought.

3 Q. Let me show you Plaintiff's Exhibit 242. This is an
4 email with Mr. Green, Jason Green.

5 A. Right.

6 Q. Can you just remind us who Mr. Green is?

7 A. He was president of Stanford Group Companies.

8 Q. And you -- you told Mr. Green that Mr. Magness remains
9 committed to Stanford but he's going to withdraw the CDs.

10 A. Right.

11 Q. And you'll call him to explain --

12 A. Right.

13 Q. -- the details. What -- do you recall the discussion
14 with Mr. Green?

15 A. No.

16 Q. Was it true that the Magness entities were still
17 committed to Stanford at this point in time?

18 A. No, it's not true, but I wanted to get what I wanted, so
19 I'm obviously going to say they are.

20 Q. So tell me more about that.

21 A. Well, at this point, I mean, we're into February. We're
22 not getting -- I mean, there's a lot of different things that
23 have gone on. I don't know the sequence, but at this point we
24 wanted out of the bank and -- and there were a -- we weren't
25 getting the answers we wanted.

1 Q. Well, why did you feel the need to tell him something
2 that was not true to get what you wanted? I mean, what were
3 you worried about that might happen if you told him the truth?

4 A. Well, it's an obvious question and it's an obvious
5 answer. The idea is you get much -- you get much more with
6 sugar than you do with vinegar. So this was my way of saying
7 we're committed to Stanford, and if everything worked out, we
8 would be. But we were not -- at this point, we were not
9 confident that Stanford -- and I -- I would have to say, to
10 make the point more clear, there was a conference call held
11 that Allen Stanford led that, if I knew when that was, that
12 might explain this letter.

13 Q. Understanding your point about sugar and vinegar, this is
14 an arm's length commercial relationship where you have a
15 depositor at a bank who is simply wanting to withdraw his
16 funds. Why do you need --

17 A. Not that simple.

18 Q. -- a special accommodation?

19 A. Because it's not that simple.

20 Q. Why not?

21 A. Because the bank -- it's at the discretion of the bank to
22 allow you to break your CDs. It's not at the request of the
23 client. It's at the request -- it's at the acceptance of the
24 bank. It's up to them to decide whether or not they will
25 allow you to break the CDs, which they did not.

1 Q. Is the same true of the loan situation, that is, when you
2 want to make a loan or take a loan against your CD, is that at
3 the discretion of the bank?

4 A. I believe that is a right of the -- of the -- that -- I
5 believe -- I -- well, I don't want to say "yes" or "no," but I
6 believe that it was, you were allowed to under the agreement
7 to borrow up to 80 percent of the -- of the CD.

8 Q. Let me show you Plaintiff's Exhibit 243. This is an
9 email from Mr. Rodriguez-Tolentino to you dated February 9,
10 2009, advising that the CDs don't mature until the following
11 year end, stating that the bank would not consent to the
12 request.

13 A. Right.

14 Q. And it -- it's in reference both to the Magness CDs and
15 to Mr. Knudson's CD.

16 A. Okay.

17 Q. Did you have a discussion with Mr. Rodriguez-Tolentino
18 about this note?

19 A. I don't recall.

20 Q. I think you have Plaintiff's Exhibit 110 in your
21 notebook.

22 A. I do.

23 Q. All right. This is a letter from Mr. Magness to you
24 dated February 11, 2009, and he is asking you to deliver
25 certain securities to HSBC. And if you turn to the second

1 page, there's a listing of shares.

2 A. Uh-huh.

3 Q. Can you -- do you recall what was going on here?

4 A. No. What the -- what was the date?

5 Q. February 11th, 2009.

6 A. Well, as I said before, if you can refresh my memory on
7 when -- when Allen Stanford gave a speech to all the -- the
8 group members, I can speak to things a lot better.

9 Q. Well, that I'm not sure about, but I just -- I want to
10 see if I can establish something a little more basic.

11 If you're transferring securities -- if he's transferring
12 securities to HSBC here, and we see the list of securities,
13 does this particular transaction relate directly to Stanford
14 International Bank or not?

15 A. No, this -- I'm -- I'll just give you -- there is a very
16 important point that you need to know.

17 Q. Okay.

18 A. Somewhere in February, I think, and it should be of
19 record somewhere in the SEC testimony, it's probably much
20 clearer then than it is now, but there was a conference call
21 held by -- at the request of Jason Green and -- because
22 everybody -- we weren't getting any answers, people were not
23 showing up to -- for -- for calls. Allen Stanford had gone
24 missing in action, and there was a call set up where Allen
25 Stanford -- and -- made everybody on the call say their name.

1 He was paranoid. He wasn't making any sense.

2 And at that point Pam McGowan and I were in the meeting,
3 along with I believe Heather Strauss was there. We left the
4 meeting -- I left that conference before it was over, grabbed
5 Pam. We went to Gary Magness' office, who was not there.
6 Tonya was there and I said, we need to transfer everything out
7 of Stanford as fast as possible.

8 Q. Not just the bank but all securities.

9 A. Everything. All assets, we need to get them all out of
10 there. And then the conversation was by Tonya, well, we don't
11 have to worry about Pershing. That doesn't have anything to
12 do with -- with Pershing's -- Pershing doesn't have anything
13 to do with the bank, and so Pershing's separate is -- is -- is
14 a good entity. I just said, Look, I just -- to be safe,
15 something -- the man's lost his mind is my -- my -- what I
16 said. And it was very clear from that.

17 So what we see from that conversation, I saw with Pam,
18 who -- Pam and I just left and went down to that offices -- at
19 my request, said get everything out.

20 Q. I show you should have Plaintiff's Exhibit 109 in the
21 notebook in front of you.

22 This is an email from Tonya Dokken to yourself dated
23 February 12th, 2009. And she is forwarding an article that
24 came from Ryan Bell. Do you see that?

25 A. I do.

1 Q. Are you still friends with Mr. Magness?

2 A. I would consider us friends, yes.

3 Q. Was there a point at which Mr. Magness or one of his
4 entities made any loans to you personally?

5 A. Yes, they did.

6 Q. And what was the nature of those loans?

7 A. Oh, God, they go back a long way. Given our relationship
8 and -- and a divorce, he had loaned me money. For a house he
9 loaned me money, and I paid him back when I could. And, yes,
10 so we'd had a number of loans.

11 Q. Just approximately what were the value of those loans in
12 the aggregate?

13 A. I don't recall, but -- I have -- depending on interest
14 and everything else, a couple of hundred, 300-, 400,000, and
15 then some -- some loans were -- one loan he gave me because I
16 was going to a closing on a house and the -- my -- my -- my
17 financing didn't come through, so he loaned me a million
18 dollars. And then I paid him back as soon as the loan came
19 through.

20 So the nature of our relationship, Gary was one of my
21 closest friends. And because of this situation, he no longer
22 is.

23 Q. Do you presently owe him any money under any of your
24 loans?

25 A. I do.

1 Q. How much money do you owe him today?

2 A. I'd -- and I had -- you'd have to go look. I don't know
3 that he hasn't written it off or whatever, but I can't pay it,
4 so -- after this debacle, it broke me. So --

5 Q. Is it six figures, seven figures?

6 A. I don't know. You have -- you probably know.

7 Q. I don't. That's why I'm asking.

8 A. I think it would be at least still over a hundred
9 thousand dollars, but he'll never see it again, I don't think,
10 unless I do something incredible.

11 Q. When was the last time you had any kind of correspondence
12 or discussion with anybody from the Magness entities,
13 including Mr. Magness himself, about that particular loan?

14 A. Oh, it's been since I sold my house in Denver, so that
15 would be four -- three, three-and-a-half years ago.

16 Q. And what was the discussion about that loan at that time?

17 A. Well, I had sold my house. I had some equity in my
18 house, of which -- because I needed money to live, Gary was
19 gracious enough to let me keep some of it, and then the rest
20 went back to him to continue to pay off the loan. And that
21 was the last discussion.

22 Q. And what was -- did he express any expectation at that
23 time about whether the remainder of the loan would be repaid
24 and under what terms?

25 A. I think the last thing I said to him is, hopefully I'll

1 get back on my feet and I will be able to pay the rest of it
2 off, which has not transpired yet.

3 Q. And you've not heard from him about that loan since that
4 time?

5 A. No. He's a billionaire.

6 Q. In connection with the CD investment, while the Magness
7 entities were in those investments, that is, from December
8 2004 to 2009, you were being -- or, sorry, through October
9 2008, you were being compensated against the full value of
10 those CD investments.

11 A. I was -- I was compensated the full value of those CDs
12 until such time that we took the loans out of the bank, and
13 then what -- and then that wasn't considered in the bank. So
14 whatever we had left after taking out our loans is what I was
15 being compensated against until they shut down the firm.

16 Q. And then in some years that was over a million dollars in
17 compensation.

18 A. That's correct.

19 Q. What were you personally doing in connection with that
20 investment, in other words, during that time period that those
21 investments were fully in the bank?

22 A. I don't understand your question.

23 Q. I mean, were you monitoring the investments? Were you
24 looking after what was going on at Stanford International
25 Bank? What kinds of activities were you engaged in with

1 respect to the investments?

2 A. In the bank?

3 Q. Yes.

4 A. Well, as long as the bank was doing fine, there wasn't a
5 whole lot we had to do. We'd go to quarterly meetings. They
6 would tell us how the bank was doing. From all the reports,
7 everything looked fine.

8 Q. But, I mean, were you looking at those reports is -- I
9 guess is my point or my question.

10 A. Sometimes, so -- I don't recall.

11 Q. In connection with either of the two depositions, the one
12 today or the one we had on April 20th, what, if anything, did
13 you do to prepare for the depositions?

14 A. What did I do? Zip. Nothing.

15 Q. Have you talked to -- or when was the last time you
16 talked to Mr. Magness?

17 A. Probably a week ago. He was in Baja, and he texted me a
18 picture of the truck, and I called back to see how he was
19 doing. So --

20 Q. Did you talk to him about the depositions at all?

21 A. I said to him I completed my deposition.

22 Q. Was there a time when there was a concern, at least as
23 you understood it, from the Magness group as to whether there
24 would be enough money to address the margin calls at all?

25 A. Well, yeah. That's why we started addressing -- oh,

1 there's no question. That's why we -- we -- we started
2 looking at every place, every rock that we could to try to
3 meet some of these margin calls.

4 But you got to remember, it was a progression. No one
5 believed it was going to get as bad as it did. So every day
6 was a -- was an interesting day.

7 Q. And when you say no one believed it was going to get as
8 bad --

9 A. Right.

10 Q. -- as it did, who are you referring to --

11 A. I'm talking about --

12 Q. -- as no one?

13 A. -- the public. I mean, I think if you went back in that
14 time frame and said to everybody, we're going to be down 30 or
15 40 percent, people wouldn't -- people wouldn't have believed
16 it. That's why everybody got caught. It was a crash of
17 un -- I mean, this is -- this is the biggest crash since the
18 Depression.

19 Q. Now, in discussing with Mr. Powers the mid January letter
20 that you drafted and Mr. Knudson signed --

21 A. Right.

22 Q. -- there was a reference in there to -- and if -- if you
23 want to have the letter --

24 A. No, I know --

25 Q. -- it's 98.

1 A. Yeah, I know what the letter is.

2 Q. Okay. There was a reference in there to Madoff.

3 A. Yes.

4 Q. So we at least -- last time you were a little uncertain
5 as to when the Madoff news broke. It obviously means that by
6 mid January, Madoff had broken. Correct?

7 A. Oh, yes.

8 Q. And was there a change in the industry that you saw as a
9 result of the Madoff revelations when they broke?

10 A. Yeah, I would say everybody became much more leery of
11 what -- of -- of anything that, you know, you couldn't look
12 into.

13 Q. If -- again, for context, Mr. Powers is asking about
14 Deposition Exhibit 232, which is one of the loose ones again.
15 And that is the email, October 21, 2008 from yourself to Ms.
16 Mendes. I think it's "Ms."

17 A. Yeah, I don't know who Ms. Mendes is.

18 Wait a minute. You sure it's in here? 239 -- there it
19 is.

20 Q. Found it?

21 A. Yes.

22 Q. And in that context he was asking you about the purpose
23 that you stated about wanting to borrow the money for, "to
24 excess insure capital in case of emergency."

25 Do you see that reference?

1 A. Yes.

2 Q. What does that mean?

3 A. Well, I would imagine it means margin calls.

4 Q. Did anyone from the Stanford International Bank ever tell
5 you that that was not a proper purpose --

6 A. Well, it doesn't matter. It was a -- as I recall, I
7 mean, I may have said that, but we were able to borrow up to
8 80 percent of the loan-to-value, so --

9 Q. Did you at any point in time have a policy of some sort
10 that told you on what basis the Stanford International Bank
11 would or would not agree to loan money, as much as 80 percent
12 of the amount deposited in a CD?

13 A. Well, the only -- the -- the -- as I recall, you could
14 borrow up to 80 percent of the value of the CD at either one
15 or two points above the rate, so -- that you were -- so we --
16 you know, it was going to be 11 percent money, but we did it
17 because we -- at this point, we didn't think the world was
18 coming to an end and we figured we'd pay back the 25 million
19 we got and keep our CDs intact, you know, in a month or so.
20 That was the idea.

21 Q. Okay. Setting aside what you just told me about the
22 amount of borrowing and the interest rate, did you have any
23 other information about the parameters Stanford International
24 Bank would look at in terms of whether to make that type
25 of loan?

1 A. No.

2 Q. Was there a time in October of 2008, when you were
3 working through these requests for loans and the making of
4 these loans, that anyone on the Magness side ever asked you to
5 make some sort of arrangement that was outside of the policies
6 and procedures --

7 A. No.

8 Q. -- of Stanford International Bank?

9 A. No.

10 Q. Did anyone at -- on the Magness side ever indicate to you
11 that they had some knowledge that what they were asking for
12 from the Stanford International Bank was somehow outside of
13 its policies and procedures?

14 A. No, because I handled that. I mean, it was, you know, we
15 can borrow up to 80 percent, let's go get it, you know. I
16 mean, it wasn't -- this -- this was in the documents, so, you
17 know, and this was good for anybody. It wasn't just for us.
18 I mean, anybody that had a CD, theoretically, could have done
19 the same thing we did.

20 Q. Why do you say "theoretically"?

21 A. Well, because that's what was in the documents. So, as
22 far as I know, in the documents -- and I -- and I don't have
23 any knowledge of anybody else doing it, but anybody under the
24 loan -- under the documents that we signed, could borrow up to
25 80 percent of the value of their CD.

1 So we were operating under what the documents said. So
2 it wasn't anything that was out of the ordinary. From my
3 recollection.

4 Q. If you could -- again, I believe it's in the loose
5 documents, the ones not in the binder -- find Exhibit 147,
6 please. And that was Ms. McGowan's email.

7 A. Well, it's in here.

8 Q. And do you recall discussing that loan request that Ms.
9 McGowan made as to the Knudson CD in February of 2009?

10 A. Not really.

11 Q. Well --

12 A. I mean, I remember -- I -- I don't -- I mean, I can't
13 tell you what I -- but I can -- I can -- supposition is that,
14 well, we -- they denied -- they denied the request to break
15 the CD, so maybe they wouldn't deny the request to borrow
16 against the CD. I don't know.

17 Q. So as -- as you look at that today, your -- your thinking
18 is that if, having been turned down on getting all of the
19 money out, at least you could try?

20 A. Right.

21 Q. -- and get 80 percent?

22 A. Let's try -- let's try option 2.

23 Q. Today you returned briefly with Mr. Powers to that
24 meeting that took place at the Holland & Hart law firm in
25 Denver and you -- of course, you talked about it last time,

1 too.

2 A. The meeting.

3 Q. Do you remember that?

4 A. Where?

5 Q. The -- the meeting that took place in Denver where
6 Juan --

7 A. Oh, yeah, yeah.

8 Q. -- Rodriguez-Tolentino came?

9 A. Yeah, sure. Okay. Yeah.

10 Q. And in that meeting, was it your understanding that any
11 information was provided to the persons attending that was not
12 generally available to the public?

13 A. Not to my knowledge.

14 Q. Is there any information that was provided to the
15 attendees at that meeting -- first of all, were they
16 accredited investors?

17 A. Everybody in the room was, yeah.

18 Q. Was there any information provided to that group of
19 accredited investors that was not otherwise available to any
20 other accredited investors?

21 A. No, it was all the same. It was -- it was -- it was
22 almost a standard -- or the same kind of presentation that
23 they would give -- except it was specifically for the
24 Magnesses and their -- and the umbrella, the same stuff they
25 gave us at the TCPs. I mean, it's just going over what they

1 do.

2 Q. During your tenure at SGC -- and let me -- let me narrow
3 that.

4 Let's take from when you started at the company, Mr.
5 Hamilton -- when Mr. Hamilton was still there, all the way
6 through, let's say, November, say, Thanksgiving of 2008 --

7 A. Uh-huh. Yes.

8 Q. -- were you at any point in time aware of SEC
9 investigations taking place that were looking at SGC and its
10 business?

11 A. Not to my knowledge -- or recollection, for that matter.

12 Q. At any point in time -- during that same time span, did
13 you make any effort to see whether, for whatever reason, the
14 SEC was looking at SGC or its operations?

15 A. No.

16 Q. Is there a reason why?

17 A. There wasn't any reason to.

18 Q. By the way, Mr. Powers has made both last time and today
19 reference to the fact that the Receiver has sued you
20 personally.

21 A. That is correct.

22 Q. Does the fact of that lawsuit impact the accuracy of your
23 testimony in any way?

24 A. Of course not.

25 Q. Does it affect the truthfulness of your testimony?

1 A. Of course not. The truth is the truth.

2 Q. And you discussed with Mr. Powers briefly in our last
3 conversation the fact that for a time, you had an office in
4 the Tabor Center where the Magness Investment Group office was
5 located?

6 A. That is correct.

7 Q. And was that something that was run through the
8 Compliance area at SGC?

9 A. That it was.

10 Q. And were there any particular parameters Compliance put
11 on your operations in that space?

12 A. Yes. One, it had to be a separate office with -- which
13 it was; all of -- all the documents, all correspondence,
14 communications, everything was the same as if I was at the
15 office over on -- at Republic Plaza.

16 Q. And what do you mean it was "the same as"?

17 A. I mean, every -- all the same standards as if I was at
18 the Republic Plaza's office was -- had to maintain there.

19 Q. Did the Magness Investment Group or any of the Magness
20 entities obtain additional information about SGC or SIBL by
21 virtue of you having that office?

22 A. No.

23 Q. Do you see, sir, that that's a July 1st, 2008, email from
24 yourself to Sir Allen Stanford with a cc to a Laura Barlow?

25 A. Yeah. I don't -- I don't know who she is, but --

1 Q. But this -- this is your email.

2 A. Yeah. Right. Sir Allen.

3 Q. And this is talking about housing for him in the -- for
4 the upcoming DNC, which is --

5 A. Right. Okay.

6 Q. That's the Denver -- excuse me, the Democratic National
7 Convention --

8 A. Yes.

9 Q. -- that took place in Denver in the summer of '08?

10 A. Right.

11 Q. And there you talk about options in terms of offering him
12 your house or Mr. Magness' house.

13 A. Right.

14 Q. But say they're both located, essentially, out of the
15 inner core of downtown Denver. Right?

16 A. Let's see. (Reviewing)

17 Q. You say, "We both live in the suburbs"?

18 A. Right.

19 Q. And then you talk about renting a friend's --

20 A. Yes.

21 Q. -- corporate apartment downtown?

22 A. Right.

23 Q. Do you know whether that happened?

24 A. No. None of this happened. It was just -- you know, it
25 was a nice gesture.

1 Q. Was there anything about this gesture that allowed the
2 Magness group to obtain some sort of preferable treatment from
3 the Stanford entities?

4 A. No, of course not. No, this was just me being my -- my
5 charismatic self, just trying to be accommodating to our
6 chairman who was going to be in town. No, I don't think he
7 even answered this letter.

8 Q. Was there anything about the Mango racing arrangement
9 that you've discussed for us previously, about the sponsorship
10 and the labeling on the truck, that allowed the Magness
11 defendants to get some sort of preferred terms from the
12 Stanford entities?

13 A. Of course not.

14 Q. Did it allow them to get some sort of information that
15 was not available to other depositors generally?

16 A. No.

17 Q. You also discussed with Mr. Powers the arrangement by
18 which one of the Stanford entities contributed some money to a
19 fashion show at Sarah Siegel's request?

20 A. That is correct.

21 Q. That is Mrs. Magness?

22 A. Mrs. Magness.

23 Q. Was there anything about that contribution that obtained
24 for the Magness defendants some sort of favorable terms from
25 Stanford?

1 A. No.

2 Q. Was there anything about that that provided -- that by
3 making that contribution to this fashion show, that the
4 Magness defendants obtained information that was not generally
5 available to depositors in the CD program?

6 A. No.

7 Q. Can you think of anything the Magness defendants did that
8 provided them with access to information about any Stanford
9 company that was not available to any other accredited
10 investor?

11 A. No.

12 Q. From your experience, the experience you related to Mr.
13 Powers about the various entities that you've worked with or
14 for since you graduated from St. Lawrence, how did SGC stack
15 in terms of the tightness of its operations?

16 A. Best -- best-run firm I've ever worked for, the highest
17 quality people, under the SPC.

18 Q. And what is there, just if you can give us some examples,
19 of what in your view made it the best-run firm that you've
20 ever worked, for other than the quality of the people you've
21 already identified?

22 A. Their ability -- their trading -- their trading
23 capabilities, the trading -- the trading floors, they -- the
24 actual trading desks they brought in, the quality of people
25 they brought in, the level of response and liaisioning with

1 Pershing. They had a very highly -- in my view, a very
2 well-run company.

3 Q. Are you including the group in Memphis that was in charge
4 of making investments in that group of people?

5 A. No. I'm including the people in Houston and the SGC
6 operation.

7 Q. Was there any -- again prior to November 1st of 2008, any
8 TPC meeting that you attended in which you came away with the
9 thought that there was something that didn't quite track with
10 what you were being informed about what was going on at the
11 bank?

12 A. No.

13 Q. All of that came in --

14 A. After.

15 Q. -- in the December time frame and beyond?

16 A. It all came after November, December, when everything was
17 melting. It really came -- the biggest question came when I
18 read 110 million was all they lost. And then that's when all
19 the red flags and bells and whistles went off.

20 Q. And at that -- that's when you started asking these
21 questions.

22 A. That's when the letter was written. That's when we
23 started asking for conference calls.

24 I mean, mind you, to the day we -- to the day they showed
25 up, the FBI showed up at everybody's office but mine, we -- we

1 -- we thought the company was fine. We thought there were
2 some issues obviously related to what was going on with Allen
3 Stanford because he was acting weird, but we didn't have any
4 clue that they were going to shut down the -- the company.

5 Q. Was there -- you've discussed a little bit today and more
6 so in our first meeting with Mr. Powers of this arrangement
7 with Pershing.

8 A. Yes.

9 Q. And in connection with that arrangement, was there any
10 sort of quid pro that you asked of the Magness parties to --

11 A. No.

12 Q. -- justify that arrangement?

13 A. No. The only reason for putting that in place was to
14 make us -- so that -- it was my own selfish -- it was selfish
15 for me, really. I mean, I was going to lose \$250 million in
16 assets under management because Pershing's margin requirements
17 were not competitive with Merrill Lynch or HSBC.

18 Q. Is it correct, sir, that your experience with the hedge
19 fund investments is that they don't have clarity about what
20 the funds are investing in?

21 A. That would be a correct statement.

22 Q. Is it also correct, sir, that generally the way those
23 work, is you give them the money and they give you the
24 returns and you don't know --

25 A. That's exactly right. And -- and like, with Tontine, for

1 example, you know, he had concentrate -- that's what killed
2 him, he had concentrated positions. So, you know, you want to
3 keep those concentrated positions and what you're doing fairly
4 quiet because you don't want other people knowing what you're
5 doing.

6 Q. You ever heard a hedge fund refer to those positions as
7 being proprietary trading?

8 A. Not in particular, but --

9 Q. Have you ever asked a hedge fund to disclose that --

10 A. Yeah.

11 Q. -- type of information?

12 A. I haven't, but they typically don't, so --

13 Q. Why do you say they typically don't?

14 A. Well, because, you know, if everybody know's what you're
15 doing in the hedge fund world, then you -- their -- then
16 they can -- somebody else can do what you're doing. It's the
17 idea of, you know, you're picking your positions because you
18 have a reason to believe, with your research, that this is,
19 you know, undervalued or overvalued if you're shorting it, and
20 you don't necessarily need everybody else to know what you're
21 up to.

22 Q. And when you told Mr. Powers that you-all understood that
23 essentially Stanford International Bank was operating like a
24 hedge fund in a regulated structure? Right?

25 A. That is correct.

1 Q. And so in that context, did it strike you as unusual that
2 the bank would not be disclosing its positions and who its
3 investment managers were?

4 A. No, not -- not at the way I -- not at the way we looked
5 at what the -- Stanford International Bank was a -- it was
6 basically a single-purpose bank which was hedge fund that was
7 doing the arbitrage, paying rates out, and keeping the profit.
8 And as long as they were profitable, the bank would stay in
9 business and could pay higher rates.

10 Q. You mentioned some to Mr. Powers, and I think in response
11 to something I had asked you earlier, about vacationing with
12 Mr. Magness in Mexico in --

13 A. December.

14 Q. -- the year-end holidays of '08?

15 A. Yeah.

16 Q. And at that point in time, had at least some of the
17 turmoil in the markets slowed down?

18 A. Some, yes. I mean, we -- for us, we had stabilized.

19 Q. Okay. And did that provide you with an opportunity,
20 having, at least as to Mr. Magness' portfolio, some
21 stabilization, did it provide you with an opportunity of
22 breathing room to talk about what was going on?

23 A. Yes.

24 Q. And this, again, was based on the 110 --

25 A. This is based on a hundred million loss made no sense to

1 me. And that -- I said, Look, we -- I don't know if the
2 TP -- well, I knew the TPC was coming up. I said, Look, we're
3 going to -- this is what -- the conversation I had with him, I
4 said, I don't know that at this point we're -- we're -- you
5 know, because the bank had -- I think Juan had asked me when I
6 was going to pay -- when we were going to pay these loans
7 back, and I pushed him off because I said, Listen, you know,
8 we need some answers here.

9 So that was -- that was the conversation. I remember
10 exactly where I was when I had the conversation. I was
11 sitting in the pool with Gary, I mean, when I had this
12 conversation with him.

13 And from there he said, Okay, well, what do you want to
14 do?

15 And I said, I'm going to draft a letter with Steve. This
16 is when I said -- I don't know if I said I was going to draft
17 a letter. I just said, I'm going to sit down. We're going to
18 -- we're going to ask questions at the TPC.

19 So when I got back, there was a number of different
20 things that went, but that -- that's when we -- we knew we had
21 a problem.

22 Q. And this TPC, the Phoenix meeting --

23 A. Right.

24 Q. -- was in mid January?

25 A. Yeah, early January. It was early January.

1 Q. Well, the letter was dated January 13. Right?

2 A. Right. So maybe it was -- whatever it was, it was before
3 that. So it was early January, mid January, but the letter
4 was written and hand-delivered to Juan. I remember where he
5 was standing to.

6 Q. Okay. But so the hand delivery took place at the
7 meeting?

8 A. At the TCP.

9 Q. And meeting took place after the date of the letter.

10 A. That's correct.

11 Q. So the meeting would be after January 13th?

12 A. Yeah, after January 13th.

13 Q. Why wait, from a conversation with Mr. Magness when
14 you're in the pool over the Christmas holidays, until roughly
15 the middle of January to raise this?

16 A. Well, because it was -- I mean, because it wasn't any of
17 huge concern, but it was a concern that we wanted to get
18 answers for. And we -- we didn't get back until -- in January
19 because I think we were there through -- it was after
20 Christmas, through, you know, through New Year's. So, you
21 know, it was a week -- you know, a week, you know, then we
22 worked on it that week and so I was going to deliver it the
23 next week. So it wasn't that long.

24 Q. Based on what you've told us about the 110 million and
25 the discrepancies, why do you say that wasn't a huge concern?

1 A. Well, at the time it was something that deserved an
2 answer. So -- you know, we didn't think the bank was, you
3 know -- we didn't -- we thought that the bank was well run, we
4 thought that it was a legitimate, you know, enterprise, but it
5 was a red flag.

6 So, I mean, do we ever think that the bank was fraudulent
7 in any way? No. We just wanted answers to why -- how they
8 did this. And the thought was, and I remember discussing it,
9 Well, it was a dynamic portfolio, as any, as we saw it, hedge
10 fund could be. So if they had a number of short managers
11 within that portfolio, which we didn't know that they did or
12 they didn't, but if they did, it could account for why it
13 wasn't down any further. And we wanted to know that answer.
14 We wanted visibility in -- more visibility into the bank.

15 And that was the reason for the letter being put forth,
16 and that was the reason why we scheduled that call with the
17 bank -- I guess it was in February or end of January.

18 Q. And -- and recognizing that the people who may end up
19 watching your deposition testimony may not be experienced in
20 the securities industry, is it a fair, high-level view that
21 when you talk about whether there were managers with shorts in
22 their portfolio, a short position is where you bet on the fact
23 that a stock will decline in value. Is that correct?

24 A. That's correct.

25 Q. And that's why you're saying that if the market declined,

1 if there was some short positions in the portfolio, that could
2 potentially explain things?

3 A. That's right. And -- and -- and the managers, which were
4 Jim Davis and Laura Pendergest, if they had seen the markets
5 in this turmoil and decided to go with short managers, because
6 we'd already determined, at least they had said, there weren't
7 any CMOs or CDOs, which is really what killed a lot of the --
8 I mean, it took out Lehmann Bros., it took out Bear Stearns,
9 it almost bankrupt Morgan Stanley. I mean, it almost took
10 down Goldman. I mean, these were the big boys.

11 So we didn't have any CMOs or CDOs, according to them, so
12 there is -- there was a plausible -- there was a plausible
13 idea that they might have had some short managers that
14 compensated for the downdraft in the world markets.

15 Q. Is it -- is it accurate, sir, that from your perspective,
16 things didn't go haywire until February?

17 A. That's correct -- well, I will say it went haywire for me
18 after that conference call with Allen Stanford, and that would
19 have been early February.

20 Q. You were talking about that you had some questions, and
21 that led to the January 2009 letter, the January 13th letter.

22 A. Yep.

23 Q. But, in fact, there were questions before that time
24 period, and you recall we went over a February 2008 email,
25 from Mango Five to you, asking questions about how the bank

1 was invested and what are -- what are -- what's the exposure,
2 what are the underlying assets. Do you recall that?

3 A. Uh-huh, yeah, somewhat, yeah.

4 Q. Okay. And so that was an investigation of Stanford
5 International Bank by Mango Five --

6 A. Right.

7 Q. -- almost a year before --

8 A. Correct.

9 Q. -- January 13th, 2009.

10 A. Uh-huh.

11 Q. And so there was some reason, evidently, to question what
12 was going on at Stanford for quite a long time before you sent
13 the letter January 13th, 2009.

14 A. No, because that was basically -- that had to do with the
15 trust obligations, I think, coming from Bob Armstrong. He
16 said, well, this is what we should be asking. And we, I
17 think, answered them, or at least the bank answered them, so
18 they were satisfied.

19 Q. And, in fact, that led to a phone call with Juan
20 Rodriguez-Tolentino in March of 2008.

21 A. Might have.

22 Q. Okay. And we'll look at that in a second. But those
23 weren't just run-of-the-mill questions. This was a -- this
24 was to the point where the president of the bank had to get on
25 the phone with the trustees. Right?

1 A. No. The president -- whenever we talked to anybody, we
2 talked to the president of the bank. I mean, there wasn't --
3 you mean about Juan? No, we always talked to Juan.

4 Q. Right.

5 A. From the beginning.

6 Q. So we had questions that -- the Mango Five had questions,
7 what do they do? They talk to the president of the bank?

8 A. That's correct.

9 Q. Every accredited investor get that kind of treatment?

10 A. I don't -- I can't tell you. I don't know.

11 Q. You were asked some questions about whether the Magness
12 defendants got information that other accredited investors did
13 not have access to?

14 A. That's correct.

15 Q. In point of fact, you don't know what kinds of
16 information other accredited investors got beyond what's in
17 the disclosure statements and annual reports.

18 A. Well, I can tell you that from what was -- what we would
19 be reported to at the TPCs, which is in front of 250 people,
20 we never got any information that was ever provided anything
21 that wasn't disseminated in those. So I can pretty much say
22 yes.

23 Q. The people -- so let's -- let's take that in steps.

24 The people at the TPC meetings, those are not investors.
25 Correct?

1 A. That is correct.

2 Q. Those are financial advisors.

3 A. That's correct.

4 Q. And they're not just any financial advisors, they're the
5 financial advisors who sell the most Stanford International
6 Bank CDs. Right?

7 A. Arguably.

8 Q. But that's who they were. That's how you got into the
9 TPC, right, selling the most CDs?

10 A. Yeah.

11 Q. Okay. So these are the people who have the most
12 personally invested, in compensation and professionally, in
13 the success of the Stanford International Bank CD program.
14 Right?

15 A. Well, I -- if you're looking at it from the -- I mean,
16 that almost sounds like you're asking me, are they --
17 everybody in this place is in collusion because we're selling
18 something. No. I mean, this is what they standardly would
19 talk about.

20 Now, are we the ones that are relaying it to the -- to
21 the investors? Yes.

22 Q. Right. I just want to make sure it's clear for the
23 record who is there. So when you say --

24 A. They were --

25 Q. -- this is the same stuff that all the investors are

1 told, I want the jury to understand whether the investors are
2 at the meeting or not.

3 A. No, they are not.

4 Q. They are not at the meeting.

5 And the information that is disclosed in the meeting, I
6 assume much of that is private Stanford information where you
7 wouldn't just go out and relay everything that you were told
8 at the meeting to an investor. You wouldn't expect people to
9 do that, would you?

10 A. No.

11 Q. No, of course not.

12 A. Yeah.

13 Q. So in terms of what was relayed to investors, the only
14 thing you could speak to with personal knowledge is the
15 information that's available in the disclosure statements and
16 the annual reports and the quarterly reports and those kinds
17 of things. Right?

18 A. That's correct.

19 Q. So let's look at Plaintiff's Exhibit 35, which is the
20 one -- the lengthy document that you looked at over the break.

21 A. Yes. Wait a minute. Where is that? Over here, I
22 believe?

23 Q. I believe that's in -- you're in the right notebook.

24 A. Yeah, there we go. Okay.

25 Q. Okay. And I think, starting with page 2, you established

1 that all of the pages in this document are marked "For
2 internal use only."

3 A. That's correct.

4 Q. Fair to say that Mr. Magness was, in terms of dollars
5 invested, was the number one investor in North America in
6 Stanford International Bank CDs in the 2005 to 2008 time
7 frame?

8 A. I would say probably.

9 Q. And he got special rates. You know about that.

10 A. Yes.

11 Q. He got -- he had endorsement deals with Stanford through
12 the Baja racing?

13 A. I don't think that has any bearing on anything, Scott.

14 Q. So my question to you is -- is: Do you really believe
15 that he did not get information -- that he didn't get
16 information that other people were not getting?

17 A. Not to my knowledge.

18 Q. He got a presentation in March 2008 from the president of
19 the bank on the telephone to his trustee committee. Correct?

20 A. Yeah, at my request.

21 Q. And -- and the president of the bank and Jason Green and
22 the chief investment officer flew all the way to Colorado in
23 2005 to make an extended presentation, and are you saying they
24 did that to just disclose the same kind of information they
25 disclosed to other people?

1 A. I would say, yes, and I would say also -- I mean, what --
2 because what you're asking is the same question that could be
3 asked of any bank. Would Donald Trump get a -- would Donald
4 Trump get a presentation from the chairman of the board of
5 Chemical or Citicorp if it was -- if it was requested? Of
6 course he would.

7 I mean, it's the same -- it's -- you know, or would he
8 get -- would he have the same access as the guy that's got a
9 million-dollar investment? Of course, he's going to get -- I
10 mean, that's -- we live in a world where, you know, where the
11 most important people are the wealthiest and they get access
12 where other people wouldn't.

13 Q. Right. And I'm not making a moral judgment about whether
14 he should or he shouldn't, but I'm just -- I just want to make
15 sure the record is clear. Mr. Magness clearly got
16 information --

17 A. I'm not going to say that he clearly got information that
18 nobody else got, Scott. I don't know that answer. He had a
19 presentation at my request and Gary's request because he
20 believed in the CD product.

21 So, you know, you can take inference from that, but there
22 is no inference as far as I'm concerned except for he was a
23 valued client to both Stanford International Bank and Stanford
24 Group Companies.

25 Q. No ques -- how about this? Can we agree on this:

1 There's no question when he wanted answers, he was able to get
2 answers?

3 A. At my request.

4 Q. At your request --

5 A. Yes.

6 Q. -- absolutely.

7 A. He was able to get answers, yeah. Well, that would
8 be -- well -- well, that's when -- let me back up.

9 Because do we get the answers we wanted? No. When we --
10 when we asked for -- when we asked for answers, we got an
11 interview. What we got out of the interview was something
12 that we weren't expecting, which was, we're in -- we own an
13 island and we own -- and we -- we have private equity, which
14 was never supposed to be in that portfolio. That was a
15 question that they volunteered that we took as there's an
16 issue here.

17 Q. The -- you're referring to the January 27, 2009
18 conversation. I want to take you back for a second to
19 Plaintiff's Exhibit 62, which are the notes of the
20 conversation with Mr. Rodriguez-Tolentino in March of 2008.

21 A. Okay.

22 Q. And if you could turn to page 3 of the exhibit, please,
23 you'll see the report on the Stanford certificates of deposit.

24 A. Page 8?

25 Q. Page 3.

1 A. Page 3.

2 Q. Let's see. I'm sorry. It's page 3 of the document, but
3 it's page 2 of the notes. So I apologize.

4 A. Okay.

5 Q. See Section 5?

6 A. Yeah.

7 Q. Now Mr. Rodriguez talked about the bank resembling a
8 Swiss bank model. Do you ever recall seeing anything like
9 that in any of the public disclosures about Stanford
10 International Bank?

11 A. No, and I don't even know what the Swiss bank model is.

12 Q. Right. And then Mr. Rodriguez, in the second paragraph,
13 was asked how the bank differed from a hedge fund. And he
14 responded it was different because the bank has regulatory
15 oversight.

16 A. Okay.

17 Q. And I think you've discussed that you always thought it
18 was -- thought of it as a hedge fund.

19 A. Yeah, that's how we looked at it. It's not how the bank
20 talked about it.

21 Q. Right. Did you have an understanding that the bank, from
22 the bank's perspective, it was kind of a no-no to talk about
23 the bank as a hedge fund or a mutual fund?

24 A. Yeah. I mean, I -- I do recall that that was -- we
25 weren't supposed to refer to the -- to the -- the bank as a

1 hedge fund.

2 Q. And then Mr. Rodriguez tells the group that the bank can
3 leverage the portfolio by a factor of 15 percent.

4 A. Right.

5 Q. Do you recall that being disclosed in these Stanford
6 marketing materials?

7 A. I do not.

8 Q. And as far as this -- this next statement, it says: "60
9 percent of the portfolio's allocation is in U.S.
10 dollar-denominated investments." Was something you saw
11 disclosed in public marketing materials?

12 A. I don't recall.

13 Q. In 2007, the Magness parties had already purchased CDs
14 from the bank. Correct?

15 A. That is correct.

16 Q. Was there in 2007 any issue of which you were aware with
17 the solvency of the bank, the bank's ability to honor the
18 repayment of the amounts deposited in the CDs?

19 A. No.

20 Q. Was there at any point in time in 2008 an issue that you
21 saw with the bank's ability to repay the amounts that had been
22 deposited by the Magness parties in the CDs?

23 A. Not to my recollection.

24 Q. Was the source of your information about the bank limited
25 to what you learned from the bank itself and from Stanford

1 Group Companies?

2 A. Yes.

3 Q. Was there -- over that holiday weekend in 2008, was there
4 any discussion in which you participated about some article in
5 Bloomberg addressing the Stanford International Bank?

6 A. Not to my recollection.

7 Q. Was there any discussion over that same weekend among
8 people who worked at Stanford Group Companies concerning
9 whether there had been a -- an uptick in people wanting to
10 withdraw their money from Stanford International Bank on
11 account of having read some media report about the bank?

12 A. Not to my recollection.

13 Q. Can you recall any point in time when you were working at
14 Stanford Group Companies up through, let's say, mid December
15 of 2008, where there was a -- an uptick in withdrawal of funds
16 from certificates of deposit on account of media reports?

17 A. Not to my recollection. Most of all of that all started
18 in December and through January or when we had that final
19 meeting in Arizona.

20 Q. That's the TPC meeting?

21 A. The TPC meeting in January.

22 Q. Did you have any information about the requirements of
23 the Stanford International Bank for borrowing against CDs,
24 whether in a manual or in some other source?

25 A. Yes.

1 Q. What was the source of the information that you had?

2 A. Directly from -- when -- if I was -- I would deal with
3 Juan Tolentino, who was president of the bank. It was very
4 widely known that you could borrow up to 80 percent against
5 the CD value.

6 Q. And when you say "it was very widely known," very widely
7 known by whom?

8 A. By any of the advisors that were participating in the
9 bank CD product.

10 Q. Did you ever discuss with the other advisors the
11 mechanics of putting in place one of those loans?

12 A. Not with another advisor. I discussed it with the bank
13 when it became necessary to do it.

14 Q. Did you discuss it with anyone other than Mr. Tolentino?

15 A. I probably did. I probably talked with Jason Green or
16 somebody else, but I just don't remember.

17 Q. Was Jason -- Jason Green was not at the bank, however,
18 was he?

19 A. No, but he was the head -- he was the head of -- he was
20 president of whatever the advisors were.

21 But all I recall is, when I needed to do it, it was very
22 quick because we were under duress. So, you know, I'd known
23 about that ability.

24 I think it was widely known among anybody that was
25 participating in the bank CD program that -- because it was --

1 you know, it was the -- it was widely talked about in these
2 TPC meetings, which were related to the bank.

3 Q. What led you to be talking to Mr. Tolentino about the
4 loans as contrasted with anyone else who worked for --

5 A. Because I needed to --

6 Q. -- the bank?

7 A. -- we needed to put it in play, so he would be the
8 logical person to talk to as president of the Stanford
9 International Bank.

10 Q. In the TPC meetings, was there any discussion of using or
11 contacting Mr. Tolentino as the way to start the process of
12 getting a loan in place?

13 A. No.

14 Q. How did you determine to reach out to Mr. Tolentino?

15 A. He's president of the bank.

16 Q. Did Mr. Tolentino, when you reached out to him, give you
17 any indication that he considered it unusual or out of the
18 chain of command for you to reach out to him about the loan?

19 A. No.

20 Q. Did he -- did he, Mr. Tolentino, when you spoke to him,
21 give you any information about the mechanics that you'd need
22 to go through in order to get that loan put in place?

23 A. I don't recall. I know that Tonya Dokken -- we had --
24 and Pam McGowan, we were all on board -- we were all in
25 discussions of what needed to get done in order to facilitate

1 the loans.

2 Q. When you say "we were all in discussions," are you
3 talking about discussions where it was Mr. Tolentino,
4 yourself, and Ms. Dokken?

5 A. And Tonya. Yeah. I mean, we would all be -- as I
6 recall, there would be conference calls, we had to get
7 paperwork, there was all kinds of different things, and we had
8 to do it quickly, so -- and then Tonya basically, once -- once
9 that was set up, that was -- that wasn't my job anymore; that
10 was really Tonya, working with Pam, to facilitate getting it
11 done.

12 Q. And Pam was the --

13 A. Pam McGowan was my assistant.

14 Q. In the course of your conversations with Mr. Tolentino,
15 did you ask him for any sort of special treatment of the
16 Magness parties in connection with these loans?

17 A. No. I mean, it was standard -- it was widely and
18 standardly known that you could borrow up to 80 percent, and
19 that's what we did.

20 Q. You talked -- and I'm -- I'm paraphrasing, I'm not
21 repeating what you said -- but essentially about needing to
22 get that done in a hurry?

23 A. Yeah.

24 Q. Did Mr. Tolentino express to you any concerns that
25 getting it done in a hurry was somehow out of the regular

1 course of the way the bank operated?

2 A. No.

3 Q. It's actually a series of documents that are the
4 attachments, and they're -- they're clipped together because
5 they are -- I believe they're related from the manner in which
6 they're produced.

7 Do you see the -- let's start with D71 --

8 A. Yes.

9 Q. -- before we get to the lengthy D72. You see that has --

10 A. I do.

11 Q. -- the most recent email, an email from Mr. Wehrle to
12 yourself?

13 A. Yes.

14 Q. And he is passing on an information about a PCM fund --

15 A. Yes.

16 Q. -- which is listed a little further down the page as
17 being a "long/short equity hedge fund of funds." Do you see
18 that reference?

19 A. I do.

20 Q. What does that mean in layspeak, if you --

21 A. Well --

22 Q. -- can tell us?

23 A. -- Prairie Capital had set up a fund in order -- and it's
24 a long/short fund, so it is a series of advisors or hedge
25 funds that they put into this fund, some would, you know, that

1 could go long or short to hedge portfolios. So it was offered
2 by them, managed by them, with a proposed return.

3 Q. If -- how does -- just generally in the industry, based
4 upon your knowledge and your work with Prairie Capital, how
5 just in a very conceptual way does Prairie Capital manage this
6 fund when there are all these other managers involved?

7 A. Well, it's a fund of funds, so they are the ones that
8 have -- back in that day and age, the best hedge fund managers
9 often were closed. So Prairie Capital had relationships with
10 these managers. They would actually pick the managers, would
11 have access to the managers. The managers would charge their
12 fees, which were 2 and 20 mostly, two percent management --
13 two percent management fee, 20 percent of the profits.

14 Then they would charge anywhere from one to
15 one-and-a-half on top of that in order to manage those
16 portfolios.

17 Q. Okay. So let's -- that's a lot of information there.
18 Let's unpack it a little bit.

19 When you say the fund -- the underlying funds were
20 closed --

21 A. Some of them were, yes.

22 Q. -- what does that mean?

23 A. It means no -- unless you had a previous or an ongoing
24 relationship with that fund manager, they were not taking any
25 new outside capital.

1 Q. Well, let's -- let's look at Exhibit D72, or at least
2 parts of it.

3 Now, first of all, the Prairie Capital management
4 product, fund of funds, was something in which you were
5 interested. Correct?

6 A. That is correct.

7 Q. And this would -- was an email that contained materials
8 that you were interested in.

9 A. That's correct.

10 Q. And at the time, is it accurate that you would have
11 looked at these materials?

12 A. That is correct.

13 Q. The last two sentences of the same paragraph of the
14 disclaimer state -- and I'll just read them to you. You can
15 read along with me: "This presentation is confidential and is
16 intended solely for the information of the person to whom it
17 has been provided. It is not to be reproduced or transmitted,
18 in whole or in part, to third parties, without the prior
19 consent of the fund."

20 Do you see that reference?

21 A. I do.

22 Q. Do you know why it's -- this -- these materials are
23 restricted in that way?

24 A. Because they're for accredited people only.

25 Q. And do you know why -- what's the connection between

1 having the materials being for accredited people only and this
2 type of restriction, as you understand it?

3 A. Because this is a private offering. It has different
4 rules and regulations.

5 Q. Okay. When you talk about different rules and
6 regulations, are you talking about rules and regulations that
7 existed --

8 A. Under the Securities Act and all that.

9 Q. So you're not talking about something specific to
10 Stanford Group Companies?

11 A. No.

12 Q. Okay. Then if you could look and I'm -- if you will see
13 in the bottom right-hand corner, there are page numbers here?

14 A. Yes.

15 Q. Okay. If you could look at page 7, and then if you look
16 at pages 7 through -- I think it goes all the way through 31.
17 Do you see that those pages are descriptions of hedge fund
18 managers?

19 A. That is correct.

20 Q. Do you see anything on the -- any of these descriptions
21 of hedge fund managers between pages 7 and 31 where it gives
22 the specific identity of the hedge fund manager?

23 A. I do not.

24 Q. Is that something in your experience that fund of fund
25 managers typically provide?

1 A. No, because, I mean, once you -- they don't want to give
2 up the golden goose, which is their group that they're
3 investing in, or otherwise everybody -- all their competitors
4 would be able to say, hey, oh, we love the guys that you're
5 investing with; we're going to try to invest with them.

6 So in this type of forum, I can't recall whether or not
7 we knew who they were once we were invested, but for
8 presentation purposes, they didn't give up the names.

9 Q. If you could look at the preceding page, which is number
10 33. And that -- again, it's a summary of principal terms, but
11 this is talking about a number of items. It starts with the
12 fund and the general partner and goes on from there.

13 Do you see that?

14 A. I do.

15 Q. There's -- the last reference on that page is talking
16 about withdrawals. Do you see it?

17 A. I do.

18 Q. And I'm hoping you can decipher for us what it means
19 where it says: "Annual, upon 95 days' notice, following a
20 12-month lock-up." Do you know what that means?

21 A. Yeah. You're -- you're locked into your investment. You
22 can't -- you can't get out of your investment within the first
23 12 months.

24 Q. And then when it says: "Withdrawals: Annual, upon 95
25 days' notice," does that mean --

1 A. So after that 12 months or prior to the 12 months, you
2 can give notice that after the lockup, you want -- you have to
3 give them a 95-day notice that you want to be -- you want to
4 get out of the fund.

5 Q. So your understanding, and correct me if I'm misstating
6 what you're telling me, is then that if -- that you could give
7 the 95 notice -- the 95-day notice in that one-year period as
8 long as the last day fell outside of the one year?

9 A. That's my understanding.

10 Q. All right. Then if you look on the second page, there is
11 a -- I guess, a chart, for lack of a better term, on the
12 bottom half of the page --

13 A. Yes.

14 Q. -- discussing 24, if my reading of Roman numerals is
15 correct, funds there?

16 A. Correct.

17 Q. Here again, there's no identification of what the
18 particular funds are.

19 A. That is correct.

20 Q. Is that the "golden goose" concept that you described for
21 us earlier?

22 A. Yeah. They're not going to tell who their -- who their
23 -- well, at least Prairie Capital and others I've seen don't
24 readily tell you who their -- who their managers are.

25 Q. So looking at D77 --

1 A. Uh-huh. Yes.

2 Q. -- that's a February of 2006 memo from Mr. Green to
3 SGC-Superstars, SGC-Superstars-STAFF.

4 Do you see that?

5 A. Yes.

6 Q. And was it the practice at the TPC meetings that you
7 attended to receive presentations about the financial
8 condition of the Stanford International Bank?

9 A. You mean as far as the presentation?

10 Q. Yeah, something along the lines of the PowerPoint that's
11 attached --

12 A. Yes.

13 Q. -- to D77?

14 A. Yeah. We had a whole section on the bank.

15 Q. And was there an opportunity at the TPC for the persons
16 attending to ask questions about the information that was
17 being presented?

18 A. Yes.

19 Q. Were there ever any questions presented about the
20 statements of financial condition for Stanford International
21 Bank at the TPC Superstars meetings that you attended?

22 A. The last one.

23 Q. Okay. At any time prior to the last one that we
24 discussed?

25 A. Not -- not to my recollection.

1 Q. Do you remember at any TPC meeting -- and, again, setting
2 aside the last one that we've already discussed at some
3 length -- was there ever any sort of controversy going on in
4 the TPC about the financial reporting on Stanford
5 International Bank?

6 A. No.

7 Q. There's a reference in the bottom half of the first page,
8 and it carries over to the top half -- thank you -- of the
9 second page, to things that were going on in the financial
10 markets in September of 2008. Do you see that?

11 A. Yes.

12 Q. And there's a -- there's sort of a -- a dotted line that
13 breaks the page roughly at the midpoint. Do you see that?

14 A. No.

15 Q. The very first page, do you see --

16 A. Oh, the dotted line. Okay, yeah.

17 Q. And using that as a reference point, if you look
18 underneath it, there's -- there's a reference to AIG tumbling
19 61 percent --

20 A. Yes.

21 Q. -- pushing the Dow to a 500-point decline?

22 A. Yes.

23 Q. Do you recall that happening in September of 2008?

24 A. Yes.

25 Q. And do you see there on September 15th, 2008, the report

1 is that the stock market suffered the worst daily plunge of
2 the year?

3 A. Yes.

4 Q. Monday is the bankruptcy of Lehman Bros. Holdings?

5 A. Yes.

6 Q. We were having some trouble remembering exactly when
7 Lehman Bros. failed, for lack of a better term. Does this
8 help refresh your memory as to when that took place as being
9 mid September of '08?

10 A. Yes, I remember it well.

11 Q. So looking at D83 and D84, I believe you'll find that
12 D83, the text, tracks much of what's contained in D84 that was
13 attached. And then you'll see the attachment was listed as
14 "Did you know" and then a bunch of PDF images?

15 A. Uh-huh.

16 Q. And do you see that D84 is called "Did you know?" and has
17 a bunch of pages that follow it?

18 A. Okay.

19 Q. And you see the email January 5th of 2009 is addressed to
20 "SFGC Global-All Employees"?

21 A. Yes.

22 Q. And then that's the Stanford Financial Group company?

23 A. I would assume.

24 Q. For emails addressed to SFGC Global-All Employees, would
25 that encompass you in the list of recipients?

1 A. I think it would encompass everybody --

2 Q. Okay.

3 A. -- including me.

4 Q. Okay. Do you see that the cover email talks about this
5 attachment being for internal use only?

6 A. Yes.

7 Q. And then let's look at the attachment. The -- do you see
8 anything on the attachment D84 that was not public
9 information?

10 A. No.

11 Q. Do you know why this was for internal use only?

12 A. I think they mark everything in our industry "For
13 Internal Use Only."

14 Q. Why do you think that?

15 A. I have -- for -- for -- I don't -- I mean, I have no
16 idea. I'm not an attorney. But it's been -- it's pretty
17 widely used. Everything I get in every firm I've been with is
18 "For Internal Use Only." Not everything, but a lot of things.

19 Q. Was there any accompanying instruction with these
20 materials that you were not to share this type of information
21 with clients, whether existing or prospective?

22 A. I don't recall.

23 Q. Do you see anything about the information that would have
24 caused you to hesitate providing it -- when I'm looking at
25 Exhibit D84, providing that information or these pictures to

1 clients, whether existing or prospective?

2 A. There's nothing in here that would -- that would -- that
3 looks -- that looks, you know, financially -- there isn't in
4 here I can see that looks like it's some kind of -- something
5 that would be confidential, no.

6 Q. Now I'm going to hand you, sir, a new document marked as
7 D86. If you could take a moment, look at D86 and tell me
8 whether this is a document that you received as a -- as one of
9 the recipients of one of these "SFGC Global-All Employee"
10 emails.

11 A. I might have. I don't recall it.

12 Q. Do you recall that --

13 A. This was printed out of Forbes, it looks like.

14 Q. Yes. Do you recall that Mr. Stanford was listed among
15 the Forbes 400 richest people in America in September of 2008?

16 A. I do.

17 Q. And obviously there's -- there's nothing confidential
18 about the --

19 A. No.

20 Q. -- the reprinting of a Forbes article, is there?

21 A. No.

22 Q. All right. So the first thing I just want to ask you,
23 you were asked about you had no indication that Stanford had
24 liquidity problems in 2008. Do you recall talking about that?

25 A. As far as I recall.

1 Q. Okay. You -- you were asked to redeem -- to look into
2 redeeming the Stanford CDs in October 2008. You do recall
3 that. We talked about that at your last deposition.

4 A. As best I recall.

5 Q. Yes. And -- and Mr. Rodriguez-Tolentino told you that
6 there could not be a redemption at that time, and then you
7 looked into the loan process. Do you recall that?

8 A. I don't recall it that way.

9 Q. You did -- looking at Plaintiff's Exhibit 221, which was
10 just the one-page email that we looked at before, there was a
11 discussion about you wanted an \$18 million loan, you got
12 approval for that, then you went back for \$25 million. Right?

13 A. That's correct.

14 Q. And you had to go to Treasury to make sure that could
15 happen. Right?

16 A. I don't recall who we went to, but that -- yes, we got an
17 \$18 million --

18 Q. Right.

19 A. -- and a \$25 million.

20 Q. Right. \$18 million was approved first, and then you
21 asked for 25 million.

22 A. Yes.

23 Q. That required some effort. He had to go to Treasury and
24 there was back-and-forth.

25 A. Maybe, yeah.

1 Q. And there was debate about whether that could happen or
2 not because they didn't know whether they had liquidity to do
3 it.

4 A. I don't recall it that way. Wait. I don't have time
5 right now because I have to make this meeting, so the two
6 hours is up, and I've got to go. So you're -- you're getting
7 me at the end when I've got to go and you're trying to ask me
8 things that you've already asked me.

9 Q. All right. And I'm just trying to clarify the timeline
10 of you were asked in 2008 broadly --

11 A. Then look at --

12 Q. -- when did you know there were liquidity problems?

13 A. -- my deposition, Scott, because I've already talked
14 about this. I'm not going to talk about it again today.

15 MR. PETRIE: That's the end of Mr. Espy's testimony,
16 Your Honor.

17 THE COURT: All right. That brings us to our lunch
18 hour. Let's see you-all back at 1:30. 1:30.

19 (Whereupon, the jury left the courtroom.)

20 THE COURT: For yesterday, I show the Magness
21 parties at 256 minutes for a total of 757 and the Receiver at
22 106 minutes for a total of 441. And there was a half hour of
23 Espy, and some of that may have been the Receiver's and we'll
24 adjust for that today.

25 So there may be some overstatement, but I can't -- I

1 can't do that until we do to total for Espy so it will be
2 reflected on today's total.

3 MR. PETRIE: And we were going to give you Espy as a
4 total for the complete run, if that works with your
5 arithmetic.

6 THE COURT: Yes.

7 MR. PETRIE: Before we part --

8 THE COURT: Yes.

9 MR. PETRIE: -- I'd move to admit DX 71, 72, 77, 83,
10 84, and 86, all of which were just referenced in Mr. Espy's
11 testimony.

12 MR. SADLER: There's no objection, and we have some
13 that need to be offered as well.

14 THE COURT: Okay. Those are admitted.

15 MR. SADLER: From Espy Volume One, Plaintiff's
16 Exhibit 215, Defendants' Exhibit 19. Espy Volume Two,
17 Plaintiff's Exhibit 217, 221, 95, 242, and 35. Offer those.

18 MR. PETRIE: I think we've covered 95 already unless
19 I'm mistaken, but I believe that one's in. But certainly no
20 objection to 95. It will take just a second, Your Honor. No
21 objection.

22 THE COURT: They're admitted. Anything else?

23 MR. SADLER: No, sir.

24 MR. PETRIE: No. Thank you.

25 THE COURT: All right. We'll see you at 1:30.

1 (Lunch recess.)

2 THE COURT: All set?

3 MR. PETRIE: Yes, sir.

4 (Whereupon, the jury entered the courtroom.)

5 THE COURT: Be seated.

6 We're ready to go, and we'll go until about 3:00 or 3:10
7 and take our afternoon break.

8 MR. PETRIE: Thank you, Your Honor.

9 We call Jeffrey Graves.

10 THE COURT: Go ahead and have a seat, please, sir.

11 THE WITNESS: Thank you.

12 THE COURT: Could you raise your right hand, please?

13 THE COURT: You may proceed.

14 MR. PETRIE: Thank you Your Honor.

15 JEFFREY GRAVES, SWORN

16 DIRECT EXAMINATION

17 By Mr. Petrie:

18 Q. Mr. Graves, could you please tell the jury where you
19 work?

20 A. First Financial Equity Corporation.

21 Q. And what do you do there, sir?

22 A. I am president and CEO.

23 Q. And how long have you been president and CEO?

24 A. Thirteen days.

25 Q. Prior to becoming president and CEO roughly two weeks

1 ago, where did you work?

2 A. Also at First Financial Equity Corporation in the role of
3 executive vice president.

4 Q. And what is the business of First Financial Equity?

5 A. We are a financial services wealth management firm,
6 broker-dealer, and a registered investment advisory firm.

7 Q. Okay. And in those four things that you've just
8 described, do you have a role in each of them?

9 A. I supervise or manage all four of them.

10 Q. Okay. Let me backtrack some and ask you, could you
11 please tell the jury what your educational background is after
12 high school?

13 A. Yes, sir. I have a BS from Arizona State University, and
14 participated in executive programs at the Wharton School of
15 Business University of Pennsylvania.

16 Q. And in connection with your profession, do you hold any
17 professional licenses?

18 A. I do. I hold the 3, the 63, the 65, the 7, the 8, and
19 the 24, all licenses by FINRA.

20 Q. Okay. And could you -- first of all, what's FINRA?

21 A. FINRA's the self-regulatory agency that oversees
22 broker-dealers.

23 Q. Okay. And we've heard some about licenses before, but I
24 don't think anybody has helped us with a brief explanation.
25 When you say you have a 3 and a 7 a and a 60, could you walk

1 the jury through those and give us just a very, if it's
2 possible, a nice, simple explanation of what those licenses
3 mean?

4 A. I'll try and make it as simple as possible. The 7, the
5 Series 7 is your general representative license. That allows
6 a person to sell stocks, bonds, mutual funds, to individuals
7 or institutions, and for that you receive a commission.

8 Series 3 allows you to sell commodities, options, and
9 futures to that same category of people, either institutions
10 or people.

11 An 8 is a supervisory license that allows you to
12 supervise over those folks.

13 A 24 is also a supervisory license, but allows you to
14 also supervise correspondence and advertising that is to be
15 used with the public.

16 I think I missed one. 65 is the registered investment
17 advisory firm. That allows you to act in the fiduciary
18 capability, which means acting in a client's best interest,
19 and charge a fee instead of a commission for those services.

20 And a Series 63 allows you -- to easily allow you to sell
21 across state lines without having to reapply in every single
22 state.

23 Q. And --

24 A. I think that was all of them, sir.

25 Q. I think it was, too. Thank you.

1 When did you graduate from college.

2 A. 1985.

3 Q. And have you been employed ever since you graduated from
4 college in '85?

5 A. I have.

6 Q. Could you give the jury, please, a brief sort of CV of
7 what you've done from '85 up through the present?

8 A. I will. 1985 right out of school in Sarasota, Florida I
9 first worked for John Hancock Financial Services. That was
10 only for six months.

11 Then I was employed by at the time Dean Witter Reynolds
12 as a registered representative. That was from 1986 to 1991.

13 In 1991, still with Dean Witter Reynolds, I relocated to
14 New York. I was in the role of what they call an MTA. Quite
15 simply that was -- I was the person in charge of training all
16 advisors for Dean Witter. I had that position for two years.

17 After that I went into branch management, again also at
18 Dean Witter.

19 From New York I went to Boise, Idaho, ran that complex.
20 And a complex in those days was one main branch where most of
21 the representatives handled, and then we had little satellite
22 branches around there. They may have anywhere from 2 to 12
23 brokers and staff that worked there. So that was the Boise
24 complex.

25 I then moved from Boise to Fort Worth, Texas with Dean

1 Witter at the time, and did the same thing except out of Fort
2 Worth; bigger office, more representatives. And at that time
3 they merged with Morgan Stanley.

4 When they merged with Morgan Stanley, right after that I
5 went to Denver and I was manager of the Denver complex. That
6 also was for two years.

7 Then I moved back here to Dallas and I ran the Dallas
8 complex for Morgan Stanley Dean Witter. That was the third
9 largest branch I think in their system. And then they were
10 looking for somebody to run the private wealth management
11 group out of Morgan Stanley. And that, quite simply, was --
12 Morgan Stanley was more of an investment bank. Dean Witter
13 was more of a retail brokerage firm. And when they merged,
14 they had a legacy sales force over on the Morgan Stanley side,
15 so I ran that from Dallas to the West Coast, not including
16 California.

17 That entire career with Dean Witter/Morgan Stanley lasted
18 about 17 years.

19 I was then recruited to go over to Bank of America
20 Securities. At Bank of America, this was prior to Merrill
21 Lynch acquisition, and I was the national brokerage executive
22 there for three years; a little over three years. I'm sorry.

23 And then that was about -- ten years ago I joined First
24 Financial--almost 11 now--First Financial Equity Corporation
25 out of Dallas. I currently have offices in Dallas and spend

1 half my time now, effective as of January 1, in Scottsdale,
2 Arizona where we're headquartered.

3 Q. And based on that background and experience that you've
4 outlined us from 1985 through present, are there any
5 particular areas of the security industry in which you believe
6 you have particularized knowledge that would be helpful to
7 share with the jury?

8 A. Yes, especially as it relates to this case. Since I was
9 both an advisor and a supervisor, I feel like I'm fairly
10 confident that I can give you guys as much of my opinion as
11 how the business works, both from the sales side and the
12 supervision side.

13 In my current role at First Financial, we are a little
14 bit unique because we handle both retail clients and
15 institutional clients, and we have quite a big space in the
16 FDIC insured investment cash management side. And all that
17 means is we manage money for large corporations, high net
18 worth individuals, only as it relates to FDIC money. That is
19 a part of our business, and I'd say it's about 20 to 25
20 percent of our revenue.

21 Q. Before I get to actually asking you some of your thoughts
22 about what may be issues in the case, I want to do a little
23 additional background. You mentioned that you had spent some
24 time in Denver.

25 A. I did.

1 Q. And since a bunch of us do come from Denver, have you
2 ever met any of us before becoming engaged in connection with
3 this case?

4 A. I have not.

5 Q. Did you have, prior -- again, prior to becoming engaged
6 to assist us in this case, have you had any dealings with one
7 of the Stanford Financial Group companies, anyone of them?

8 A. I have not, other than being so long in the business I do
9 know representatives that worked for Stanford at one time or
10 another.

11 Q. And is there anything -- have you ever had an opportunity
12 to talk to those people about their work with Stanford that
13 would somehow bear on any opinions you might provide in this
14 case?

15 A. No, sir, I did not.

16 Q. And are you being reimbursed for your time you spend
17 here?

18 A. I am.

19 Q. And have you been reimbursed for the other time that
20 you've been consulting with us and assisting us in this case?

21 A. I have been, because this project takes me away from my
22 day job.

23 Q. And what is the -- how much are you compensated for your
24 time, sir?

25 A. \$500 an hour.

1 Q. Do you recall, sir, that we asked you to look at
2 Mr. Magness' and the three Magness parties' securities
3 positions and their securities holdings that they had over the
4 time periods at issue in this case, and to look at margin loan
5 transactions with respect to those holdings?

6 A. Yes.

7 Q. And did you do that?

8 A. I did.

9 Q. And in a very general way, what did you do to look at
10 that?

11 A. As it relates to this scenario, I looked at the number of
12 positions, the size of the positions, how often they use
13 margin, and when the margin was utilized and/or possibly paid
14 down.

15 Q. And was there anything about the nature of the holdings
16 here -- and I'm going to address them all in one lump, unless
17 you tell me that that creates an inaccuracy--so GMIT, Magness
18 Securities, and GMAG. Do their securities holdings in the
19 Liberty Media companies, in your opinion, create any issues
20 about efforts to try and liquidate or reduce those holdings?

21 A. Yes, they did. The Magness, et al., was highly
22 concentrated, even though it was multiple positions, but all
23 under, let's say, one family, or that were derived from
24 original investment, being Liberty.

25 Q. And we've heard sort of nibbles around the edges about it

1 being a highly concentrated position. What does that mean for
2 someone who is holding a highly concentrated position and then
3 tries to go liquidate a significant portion of it?

4 A. It's kind of like having your eggs all in one basket.
5 And the problem with it when you are one of the largest
6 shareholders out there, you control most of the shares that
7 are out in the public, and so when you go and try and sell
8 large blocks of those positions all at once, it may have a
9 consequence of lowering the price.

10 So, in other words, if somebody was selling ten shares
11 every single day, that's not a big deal. But when all of the
12 sudden they have to sell 200 shares and the street looks at
13 that, the other buyers, they kind of know that, well, maybe we
14 can get this price a little bit better. I don't want to use
15 the word fire sale, but that's probably a good analogy.

16 Q. Changing topics on you, do you recall that we also asked
17 you to look at the terms that the Magness parties were
18 receiving from the broker-dealer and the bank in connection
19 with this case and to provide us with your advice, your
20 opinions, as to how their treatment might relate to other high
21 net worth individuals with -- the treatment of which would be
22 something that you're familiar with?

23 A. Yeah. I would say the treatment of the margin loans were
24 very consistent with most other high net worth individuals
25 that are valuable to a firm.

1 Q. And what is there about the treatment that leads you to
2 opine that it is fairly consistent in that respect?

3 A. When you have a client that's very important to your
4 firm, it's just like any other business--they're a customer of
5 yours and you want to keep them happy. You want to earn not
6 only the business you have, but the business possibly of
7 increasing.

8 So brokerage firms will -- and their advisors will do
9 quite a few things. They will discount out shares of it's
10 sales, so give them a better price than they would a person of
11 my stature. On margin lending they'll get a better rate for
12 their loans. So if I was charging four percent to the
13 average, that would be my stated rate. As a broker-dealer, we
14 have the capability in most cases of discounting that rate to
15 our best clients. So instead of getting four, you could get
16 charged three.

17 I'd say it's very similar, maybe, if somebody was going
18 into a Ford dealership and buying one truck they may get one
19 rate, but if all of the sudden they're buying a hundred
20 trucks, they're probably going to get a little better rate on
21 those hundreds. So there's a couple of examples.

22 Q. Lacking at the margin loan kind of features, one of the
23 things we've heard some testimony about is a release rate. Is
24 there any room to adjust the release rate in that type of
25 relationship, in your experience?

1 A. Barring regulatory levels that you have to keep, there is
2 some room possibly on the release rate, which just means, you
3 know, how much can you borrow. But when you have concentrated
4 positions, it also can work in the other way. Some firms may
5 limited the amount of loans they will give, thereby reducing
6 your risk as the business, being clearing firm or the
7 broker-dealer.

8 Q. Okay. So who in that scenario is getting their risk
9 reduced?

10 A. That would -- in that scenario it would be the
11 broker-dealer.

12 Q. Okay. And why is that a reduction of risk when you're
13 talking about one of these concentrated positions?

14 A. Well, again, if all your eggs are in one basket and I'm
15 loaning against a big position and that one position goes
16 down, I may be on the hook for it. So I, therefore, don't
17 want to release as much.

18 Q. Now, you mentioned that a significant part of your firm's
19 business involves FDIC insured products.

20 A. Right.

21 Q. Do any of those include things that are certificates of
22 deposit?

23 A. Yes; two programs. Certificates of deposit, which in our
24 business we call those time deposit. That means there's a
25 starting point and there's an ending point. And that can be

1 anywhere from generally 28 days to five years, and in some
2 rare cases up to ten years on some of those CDs, certificates
3 of deposit.

4 We also do demand deposits. And demand deposits are,
5 quite simply, just like you think, it's like a savings
6 account. You can go in and get your money the next day. So
7 there is no length of time associated with those, and we deal
8 in them both.

9 Q. I'd like to focus on the time deposits rather than the
10 demand deposits.

11 A. Sure.

12 Q. And in your experience, sir, what are the variables that
13 go into determining the return, just in a general sense, that
14 one gets on a time deposit?

15 A. Well, here in the United States the length of time, so
16 the farther you go out in the willingness to lock your money
17 up, the higher the return. And with some institutions, the
18 greater money that you deposit allows you also to get a higher
19 return.

20 Q. And when we are talking about margin loans and
21 flexibility there, you talked about--we didn't really delve
22 into it--you talked about some sort of regulatory constraints
23 that might exist. Do you recall that?

24 A. Yes.

25 Q. Are there any sort of similar -- I shouldn't say similar.

1 Are there regulatory constraints on what a financial
2 institution could do with a time deposit, in your experience?

3 A. Could you explain?

4 Q. Well, for example, is there something about being an
5 institution -- And let's take an FDIC insured institution,
6 even though we're not dealing with one here. But is there
7 something about being an institution of that type that would
8 limit your ability to structure a CD, either in terms of an
9 interest rate or the term that you've described?

10 A. No. I guess the way you're asking it, Mr. Petrie, no. I
11 wouldn't say there was necessarily, as long as you're falling
12 within the constraints of capitalization obviously of the
13 bank, those type of regulations, and you fall within FDIC
14 guidelines and your premiums for that FDIC insurance are paid
15 up and paid according to what type of deposits. It gets a
16 little bit more complicated in that area, but there are some
17 constraints.

18 Q. Did we also ask you to look at, in the pertinent time
19 frames for the various -- the eight CDs that were involved
20 here, did we also ask you to look at the interest rates that
21 were being provided on those CDs?

22 A. Yes, you did.

23 Q. And did we ask you to assess whether those interest rates
24 were inordinately high or, in the sort of the parlance of this
25 case, too good to be true?

1 A. Apples to oranges. Within the time deposit world, if we
2 were considering that that was an FDIC CD just like it was in
3 the United States, it would be extraordinarily high at those
4 time frames. But these are not necessarily the same. They
5 were backed on the full faith and credit of the bank, not the
6 U.S. government, so they were significantly higher, yes.

7 Q. Okay. And is that something that, in your experience, is
8 unusual, that a bank that is not in the United States might
9 have a different rate structure along the lines you've
10 described?

11 A. No, in my experience and my opinion I would say, yes, if
12 you're -- for the most part, if you're outside the United
13 States, offshore banks will pay you a higher rate.

14 Q. And was there anything about the interest rate, in your
15 opinion, that when you looked at it you thought it might be an
16 indicator that there was some sort of issue with fraud
17 involved with the institution providing that certificate of
18 deposit?

19 A. No, not especially if I put myself back in that time
20 frame, just the interest rate alone wouldn't have constituted
21 fraud, in my opinion.

22 Q. Why do you say especially if you put yourself back in
23 that time frame?

24 A. Well, I think all of our judgment could be clouded by
25 what we now know, so -- in today's current interest rate

1 compared to where it was anywhere up to ten years ago. So I
2 try and -- I tried to look at it from the eyes of being in
3 that same time period.

4 Q. Okay. And in that time period, in your opinion, sir, in
5 dealing with an offshore bank and looking at these interest
6 rates, do you have an opinion as to whether a reasonably
7 prudent investor would look at it and ask more questions about
8 the institution in light of the rate?

9 A. Yes.

10 Q. And what is your opinion, sir?

11 A. My opinion is that they would have looked at it, they
12 should have looked at it as well, and ask questions of why is
13 this higher.

14 Q. Is -- did we also ask you to look at the risks and
15 rewards of investment--and I'm paraphrasing some of these--the
16 risk and rewards of investments that are not with FDIC insured
17 banks?

18 A. You did.

19 Q. And did you do that?

20 A. I did.

21 Q. And, by the way, in doing your analysis, what information
22 did you look at, just in a very general way?

23 A. Everything that's available to me on a daily basis, so
24 from Bloomberg, to my clearing firm, to just my general
25 experience through the internet, et cetera. Wherever I would

1 normally look to question investments, I'd look to these the
2 same way.

3 Q. Did you also look at information that was specific to the
4 relationship between the Magness parties and either Stanford
5 Group Companies or the Stanford International Bank?

6 A. Yes. I was provided a lot of exhibits and a lot of
7 information that were drawn for either the depositions and/or
8 the information requested from either side.

9 Q. And when you say drawn from the depositions, have you
10 actually reviewed some of the deposition testimony?

11 A. I have reviewed the depositions, yes.

12 Q. And can you explain to the jury, or do you have an
13 opinion as to whether there is a relationship between the risk
14 that you saw in these particular -- if any, in these
15 particular certificates of deposit, and whether there is some
16 indication from that of either an insolvent institution or an
17 institution that has some sort of financial issue that could
18 go all the way up to being a fraud?

19 A. No. The rates of return alone, as I think I previously
20 testified, wouldn't necessarily judge me to consider it a
21 fraud. There are plenty of money managers that have above
22 benchmark returns, which means they're beating the market,
23 so-to-speak, and just that fact alone wouldn't mean it was
24 fraud.

25 Q. Is the fact that you have an instrument provided by a

1 financial institution, in this case an offshore bank, that
2 then invests in a securities market in some way an indicator
3 of insolvency or fraud, in your opinion?

4 A. It would not be an indicator just because of that, no.

5 Q. Are those products that you've seen in the marketplace
6 over the course of your experience?

7 A. I have.

8 Q. By the way, as part of your work history from 1985
9 through present, and when acting as a financial advisor, do
10 you undertake from time to time to investigate particular
11 either investments or ideas that a client might have on behalf
12 of your client?

13 A. I did, yes.

14 Q. Okay. And in that context, I just have a small question
15 that we addressed with you in the context of your supplemental
16 report.

17 Do you have any personal experience with reaching out to
18 a company that you're looking at investing in and trying to
19 reach that company's auditor and speak -- or auditors and
20 speak to those individuals or to that company?

21 A. When I was an advisor, no, I would never -- NO. I mean,
22 I don't know a broker that actually reached out to an auditor.
23 Now, once I got into management, and we're audited all the
24 time in our business, as an owner of the business or as an
25 employee of the business, even when we're being audited, I

1 can't get answers until the audit is complete.

2 Q. I'm sorry. My question was a little different, so let me
3 come back to that thought in just a moment.

4 If you're looking, either on your own initiative or at a
5 client request, at a company, XYZ, Inc., and you're examining
6 whatever information you can locate, and you find the name of
7 XYZ, Inc.'s auditor, is that someone you reach out to to
8 attempt to obtain information about XYZ, Inc.?

9 A. In the normal course of business, no, I wouldn't have.

10 Q. And why not?

11 A. A similar reason. I mean, I wouldn't expect them to give
12 me information that wouldn't be necessarily public, unless it
13 was published in the annual report. So no, I wouldn't have
14 reached out to them.

15 Q. Have you ever done that?

16 A. No, sir, I have not.

17 Q. Okay. Then let's come back around. You were talking
18 about an auditor of your company.

19 A. Uh-huh.

20 Q. What were you referring to when you were addressing that?

21 A. Sure. Any of the three companies I've worked at in the
22 brokerage world--Morgan Stanley -- Dean Witter Morgan Stanley,
23 Bank of America, or now First Financial--we are audited quite
24 frequently, at least every three years now. Quite often,
25 though, in reality, depending on the size of the firm, it's

1 every year. And I have a lot of experience with auditors
2 sitting in our offices for days, or weeks, or in the case of
3 Bank of America, it quite often seemed like they had a
4 permanent office in our headquarters. So the audits are
5 frequent, they are lengthy, they are thorough.

6 And the auditors generally--this is my opinion--don't
7 want to play their cards, so you don't even know really what
8 they're looking for. You can make a guess based on the
9 information that they're asking for. But I have asked
10 blatantly, well, if you tell me what you're looking for or
11 what you're trying to find out, maybe I can help speed this
12 process, and they said, no, please just give us the
13 information. They don't relay that to you what they're
14 looking for.

15 Q. And when you talk about auditors in that context, who are
16 you talking about?

17 A. I'm talking about--I'm sorry--FINRA and the SEC.

18 Q. And is that two separate sets of audits, an SEC audit and
19 a FINRA audit?

20 A. They are. The FINRA audit generally is only asking for
21 stuff on the broker-dealer side, so that's -- back how I
22 explained that a Series 7 allows you to do commissions and not
23 be charging a client for advice, in that world that's kind of
24 what FINRA oversees.

25 The SEC, while it purveys over FINRA in some cases, they

1 are generally looking at the registered investment advisory
2 firm. However, they can and will sometimes deal into the
3 broker-dealer side as well. But their general focus is on the
4 RIA, or registered investment advisory side.

5 Q. Now, are you familiar with SEC investigations?

6 A. I am.

7 Q. And what is, just for the benefit of our jury--we haven't
8 really talked about this--the difference between, say, an SEC
9 audit and an SEC investigation?

10 A. An investigation generally steps it up a level,
11 so-to-speak. A lot of times SEC investigations -- there are
12 two different channels, two different parts of the SEC. A lot
13 of times what will happen is you will have an audit, and
14 they'll find something wrong, it could be minor, it could be
15 major, and they will find something wrong and they will turn
16 it over to the investigative side, and then possibly turn it
17 over to the enforcement side after that. So there's actually
18 different people, depending on what the auditors find. The
19 investigation side can also pop in right away if they suspect
20 something is wrong, null and void of an audit.

21 Q. Null and void meaning you don't go the audit step first?

22 A. Yeah. It doesn't necessarily mean the audit will come
23 first.

24 Q. Okay. And in your -- based on your background, training,
25 and experience, if the SEC is conducting an investigation, is

1 there a way to obtain information about that SEC investigation
2 while it's ongoing?

3 A. From the public I am not aware of any way -- I mean, I
4 think they would say to the effect of there -- we have an
5 investigation, but that's it; no comments after that.

6 Q. Okay. In connection with your work, did you read the
7 July 3rd, 2008 Bloomberg article about the employee lawsuit
8 against the Stanford brokerage?

9 A. Not at that time. I did see it as part of this
10 engagement.

11 Q. Thank you. You cleared up a bad question when I didn't
12 put a time bound on it.

13 A. That's okay. I didn't know it was that bad.

14 Q. And in that review, did you see the statement in there
15 from the SEC representative that wouldn't either -- would not
16 either confirm or deny the existence of an investigation?

17 A. I vaguely recall that.

18 Q. And, in your experience, is that consistent with the way
19 the SEC approaches inquiries from the public or the media into
20 ongoing investigations?

21 A. Yes. That would be consistent.

22 Q. Okay. While we were speaking earlier briefly about the
23 treatment of a high net worth client, I omitted to ask you
24 about some things that I'm going to loosely refer to as perks.

25 A. Perks?

1 Q. Perks, yes, sir. Are you familiar, from your experience
2 in the business, with having things you provide to clients;
3 anywhere from, say, tickets to the Cowboys game this weekend,
4 to something perhaps a little more splendiferous, if I'm
5 allowed to say that there is such a thing?

6 A. Well, I don't know if you were hinting if I had Cowboys
7 tickets, which I do not, but yes, I am familiar with that
8 practice. And it doesn't happen as much in a smaller firm of
9 our size, but in a larger firm it happens all the time.

10 Q. Okay. And did you see in this case the discussion with
11 the Magness parties about having this arrangement by which
12 they agreed to put a banner on the back panel of the Mango
13 Five Racing truck and receive \$20,000 from one of the Stanford
14 companies for that?

15 A. Yes, I did read about that. And as coincidence has it, I
16 have had a very personal experience along the same lines, so I
17 was familiar with how that would have worked.

18 Q. Okay. What was your -- if you don't mind my intruding,
19 what was your personal experience?

20 A. No. In the late '80s I raced and was familiar with
21 racing offshore power boats growing up in Florida, and the
22 local Dean Witter office at the time sponsored one of those
23 boats with a sticker on the side of the boat for Dean Witter
24 at the request of myself as an advisor for one of my larger
25 clients. It could have been my largest client at the time.

1 Q. Is that something where there was some sort of internal
2 process to approve it, or were you doing that on your own?

3 A. Yes. No, I went to my branch manager at the time. He
4 would have had, I'm assuming, go to a regional director to get
5 approval, but it was a request and a check was cut to the race
6 team to cover that.

7 Q. Did you also see in the materials you looked at very
8 brief or very limited pieces of paper that talked about this
9 \$60,000 contribution to a fashion show at the request of Sarah
10 Siegel Magness?

11 A. I did see that.

12 Q. And do you have any information about whether there was
13 even a Stanford company--and I'm using that as a generic for
14 the Stanford entities--banner or any sort of marketing done in
15 connection with that?

16 A. I did not notice.

17 Q. Did that strike you as being an unusual type of
18 sponsorship for an organization that had several thousand
19 financial advisors?

20 A. It did not. It did not. I noticed when I was leafing
21 through I think it's been referred here as the Eagle magazine,
22 their internal publication, or maybe it was external as well,
23 I noticed quite a few pictures of different sponsorships I
24 don't recall seeing in that magazine, though.

25 Q. And I apologize. I'm having trouble -- I know you

1 weren't here for all the testimony in the trial. Were you
2 here for the picture that showed the group of people standing
3 in front of the big plexiglass cage filled with \$20 million
4 cash?

5 A. Yes, I was.

6 Q. Okay. And is that the type of sponsorship that is
7 something within your area of -- or something you've seen
8 before?

9 A. No. I've never seen \$20 million in one place ever.

10 Q. Okay. Did you -- in the Stanford Eagle materials that
11 you were shown, did you see other types of sponsorships that
12 were of a greater dollar expense to the Stanford companies
13 than the \$20,000 Mango Racing and the \$60,000 for the fashion
14 show in New York?

15 A. To be honest, I don't recall if there was something more
16 or less.

17 Q. Do you remember seeing the materials about the St. Jude
18 golf tournament conducted in Memphis?

19 A. I seem to recall that, yes.

20 Q. Okay. And do you remember seeing materials about
21 sponsoring cricket -- other than the \$20 million thing, but
22 sponsoring cricket things?

23 A. I did see the cricket team, yeah.

24 Q. And did you see materials having -- more recently, so in
25 December of 2016, seeing materials that had to do with

1 sponsoring polo matches?

2 A. No.

3 Q. Okay. Looking at the questions that you were asked to
4 look at and the various aspects of the relationship between
5 the Magness parties and either of the Stanford Group Company
6 or the Stanford International Bank, did you see anything, as
7 someone who works in this industry, see any facts that would
8 lead you to believe, lead you to opine that there was anything
9 about this relationship that afforded the Magness parties with
10 access to information that was not generally available to the
11 public?

12 A. No. There's been nothing presented to me in any shape or
13 form that would suggest they had preferential treatment as far
14 as inside information.

15 Q. Okay. And the same -- looking at the same background of
16 information, did you see anything in all of the materials that
17 you reviewed that lead you to form any opinion that the
18 Magness parties in some way received inappropriate benefits
19 from either the Stanford Group Company or from the Stanford
20 International Bank in connection with those business
21 relationships?

22 A. No, I didn't notice anything during that time period that
23 would have fallen into that category.

24 Q. Thank you, sir.

25 MR. PETRIE: I pass the witness, Your Honor.

1 MR. POWERS: May I proceed, Your Honor?

2 THE COURT: Please.

3 CROSS EXAMINATION

4 By Mr. Powers:

5 Q. Good afternoon, Mr. Graves.

6 A. Mr. Powers.

7 Q. Congratulations on your promotion.

8 A. Thank you.

9 Q. Must be a busy time of year for you.

10 A. It's a little busy.

11 Q. You have been with us today and yesterday. Is that
12 right?

13 A. That is correct.

14 Q. You were not here for the testimony that began on Monday.

15 A. I was not.

16 Q. And you were not here for the testimony on Tuesday.

17 A. I was not.

18 Q. Okay. And I'd like to make sure we have an understanding
19 of your role in the case.

20 You have no firsthand knowledge of the transactions
21 between the Defendants and the Stanford entities. Is that
22 correct?

23 A. That is correct.

24 Q. And you did not learn anything about those transactions
25 until well after the fact.

1 A. That is correct.

2 Q. Sometime within the last year or so.

3 A. Yes, sir.

4 Q. And you came to be involved in this case, after being
5 contacted by counsel for the Defendants, to serve as an expert
6 witness.

7 A. That's true.

8 Q. And just so we're clear, it's your understanding that you
9 are not here to take the jury's role as fact-finder; you're
10 here to offer your views, and the jury will decide what to do
11 with those.

12 A. Yes, sir.

13 Q. Mr. Petrie mentioned that you are being compensated \$500
14 an hour for your time in this engagement.

15 A. Yes, sir.

16 Q. And is that \$500 an hour paid to your firm, or is that
17 paid to you individually?

18 A. It's paid to me individually.

19 Q. And, just approximately, how many hours have you spent
20 working on this engagement, if you could just ballpark it for
21 us? Two weeks? Three weeks?

22 A. In my deposition you had asked the same question, so I
23 wish I would have been prepared. I don't have the exact
24 number. I'm sure Ballard Spahr could give that to you. But
25 it's in excess of 40 hours.

1 Q. In excess of 40 hours.

2 A. Yes, sir.

3 Q. Do you think it's in excess of 80 hours? I'm just trying
4 to get a sense. Did you send one working week on this? Two
5 working weeks?

6 A. Well, I've been working in pieces, so half hour here,
7 hour there, two hours there. My time, just by definition,
8 I've been here two days now, so I would say 60 or 80 might be
9 doable.

10 Q. Okay. So if you had consolidated it, maybe two full
11 weeks, you know, beginning to end.

12 A. Including testimony, I think that would be fair.

13 Q. Okay. So because it's important --

14 A. I'm guessing.

15 Q. Sure. And you gave some opinions about, I didn't see
16 this or I didn't see that. You would agree it's important for
17 the jury to understand how much time you spent looking at
18 things so they can evaluate the value of you not seeing
19 something.

20 A. Yes.

21 Q. Okay. Now, so you weren't here on Monday or Tuesday, so
22 you didn't see the testimony of Mr. Magness?

23 A. I did not.

24 Q. And you did not see the testimony of Mr. Knudson.

25 A. I think he spoke Thursday morning, briefly.

1 Q. You saw Mr. Knudson briefly on Thursday morning?

2 A. Yes.

3 Q. For 30 minutes or so.

4 A. I wasn't keeping track.

5 Q. All right. I want to talk to you about the work that you
6 did to develop your opinions in the case.

7 Just in general terms, what you did was review documents
8 that had been supplied by counsel for the Defendants.

9 Correct?

10 A. That is correct.

11 Q. And you had conversation with counsel for the Defendants.

12 A. That is correct.

13 Q. You did not, before developing your opinions in this
14 case, meet with Mr. Magness.

15 A. I did not.

16 Q. You did not meet with Ms. Tonya Dokken.

17 A. I did not.

18 Q. You did not meet or talk with Ray Sutton.

19 A. I did not.

20 Q. Nor Bob Armstrong?

21 A. No, sir.

22 Q. Nor Steve Knudson?

23 A. That is correct. I have not.

24 Q. Nor Tom Espy?

25 A. No, sir.

1 Q. Nor Ryan Bell, who testified in court just yesterday.

2 A. I had not.

3 Q. I think the only other thing you told me you did was you
4 had reviewed general market conditions at relevant time
5 periods.

6 A. Correct.

7 Q. And did I leave anything else out?

8 A. I don't think so.

9 Q. I did leave something out. Did you talk to or meet with
10 Chuck Wilk?

11 A. No.

12 Q. You did not. Okay.

13 And you mentioned that you knew some people back in the
14 2000s who had worked at Stanford International -- or, excuse
15 me, Stanford Group Company, the brokerage in the United
16 States. Is that right?

17 A. That is correct.

18 Q. And I think it's fair to say you didn't know back then
19 what Stanford International Bank was.

20 A. Could you repeat that?

21 Q. Yeah. So you knew people that worked at the
22 brokerage--that is Stanford Group Company --

23 A. Correct.

24 Q. -- but you did not know what Stanford International Bank
25 was.

1 A. I do not know when I first came to the realization about
2 the bank.

3 Q. Well, do you recall me asking you at your deposition what
4 you knew about Stanford Group Company, other than that you
5 knew people that worked there?

6 A. I don't recall exactly, no.

7 Q. And --

8 MR. POWERS: Mr. Jarrett, can you pull up
9 Mr. Graves' transcript at page 29, line 7 through 10?

10 Q. (BY MR. POWERS) And I asked you, "Prior to February
11 2009, what did you know about Stanford Group Company, other
12 than that you may have known some people that worked there?"

13 And your answer was, "That's literally about it."

14 A. That's correct. But, like I said, I just didn't know the
15 date of when I first heard of the bank.

16 Q. Okay.

17 MR. POWERS: All right. We can pull that down.

18 Q. (BY MR. POWERS) Prior to February 2009, I think you had
19 heard of Allen Stanford.

20 A. I believe so, yes.

21 Q. But you didn't know really anything about him.

22 A. No.

23 Q. Okay. And you had not worked with Mr. Magness or his
24 affiliated entities at any point, I think you said, in
25 response to some of Mr. Petrie's questions.

1 A. That's correct.

2 Q. You've never been to Antigua?

3 A. I have not.

4 Q. And you have no experience with investments in Antigua.

5 A. I have no personal experience with investments in
6 Antigua.

7 Q. So because you didn't really know anything of substance
8 about Stanford before 2009, I think it's fair to say you
9 cannot give the jury your personal recollection about how you
10 felt about Stanford prior to 2009 with respect to whether the
11 investment was good, bad, or indifferent.

12 A. Well, I was given information about the investment, so my
13 opinion is based on the information that I was given about the
14 investment in particular.

15 Q. Understood. But what's happening is you're taking
16 information you're given now and you're developing an opinion
17 about it in the context of this lawsuit. Correct?

18 A. That is correct.

19 Q. What you're not doing is giving the jury a recollection
20 of how you felt then. This is how you feel now based on the
21 review of information in the context of this lawsuit and being
22 retained by Defendants' counsel. Correct?

23 A. That is correct.

24 Q. You talked a little bit about the concept that if you
25 sold a -- let's call it a substantial amount of a concentrated

1 position, there is some possibility that there could be a
2 decrease in price for that particular stock. Did I have that
3 right?

4 A. Generally I'd say yes.

5 Q. And did you see in this courtroom any testimony from any
6 witness where the witness suggested that avoiding a decrease
7 in the price of stock was a motivation to not sell any
8 particular stock position?

9 A. I did not see any testimony to that, no.

10 Q. And I think you would agree with me that you personally
11 never gave any advice to the Magness Defendants about whether
12 they should or should not sell any particular stock position
13 in 2008.

14 A. I did not give any advice to Mr. Magness nor his
15 entities, no.

16 Q. And back in 2008, I'm sure you are aware that the Magness
17 Defendants sold some of their concentrated positions.

18 A. Yes, I am.

19 Q. And you're aware that in 2007 they sold more than \$100
20 million in some of their concentrated positions.

21 A. Yes, I am.

22 Q. And that they used those sales to pay down some of their
23 margin debt in 2007.

24 A. From what I read, yes.

25 Q. And in February 2008, in response to margin calls, they,

1 again, sold some of their concentrated positions to pay margin
2 calls.

3 A. I did read that.

4 Q. You talked a little bit with Mr. Petrie about a number of
5 factors that I think you said by themselves would not be an
6 indicator of fraud. Do you recall that?

7 A. I do.

8 Q. You were -- just to make sure I understand, you're not
9 suggesting to the jury that Stanford International Bank was
10 not a fraud, are you?

11 A. No, I'm not suggesting that. I -- the question was was
12 the rate alone a reason to believe that it was fraud, and I
13 believe my testimony said no, the rate alone was not reason
14 for me to call it a fraud.

15 Q. Sure. But we can all agree that Stanford International
16 Bank was, in fact, a fraud.

17 A. Yes.

18 Q. And it was a fraud for a whole number of factors other
19 than the rate alone.

20 A. Yeah; in hindsight, absolutely.

21 Q. Well, you added in hindsight, but let me just ask you.
22 You were here for Mr. Bell's testimony.

23 A. Most of it, yes.

24 Q. Yes. And you saw that, just for example, he had sent an
25 email to Tonya Dokken five days before the SEC filed the

1 lawsuit against the Stanford Defendants in which he suggested
2 Stanford might be a Ponzi scheme, didn't he?

3 A. I saw that testimony.

4 Q. Now, you talked about SEC investigations. And it's true,
5 isn't it, that the SEC needs -- that you need an actual formal
6 order from the Commission itself to start an enforcement
7 proceeding, don't you?

8 A. To be honest with you, I don't -- I can't say that 100
9 percent for sure that I know that.

10 Q. Okay. And that's the only way that you get to issue
11 subpoenas--that is, not you; the only way the SEC gets to
12 issue subpoenas. You know that.

13 A. I don't know that for a fact, no. I'm sorry.

14 Q. And I think you said the SEC would confirm there was an
15 investigation. Were you sure about that one either?

16 A. Well, I think what I said, is it's my experience and my
17 opinion that they wouldn't.

18 Q. That they would not confirm the existence of the
19 investigation.

20 A. No. One way or -- I didn't think they'd give you any
21 information. I mean, I've heard them say there's an--I read
22 about it, too--that there's an investigation, but we're not
23 going to comment on it.

24 Q. And you were speaking about the Bloomberg article,
25 Plaintiff's Exhibit 65?

1 A. I wasn't speaking about anything in particular, I don't
2 think, in my testimony, but that was one example.

3 Q. Right. I think that one was brought up to you. Maybe
4 that wasn't what you were referring to, but that one was
5 brought up in your testimony.

6 MR. POWERS: Can we have Plaintiff's Exhibit 65?
7 And let's just take the first two paragraphs.

8 THE WITNESS: Thank you.

9 Q. (BY MR. POWERS) And you're aware that Bloomberg is a
10 trustworthy financial news publication. Right?

11 A. I am aware of Bloomberg, yes.

12 Q. And the beginning of the second paragraph says that the
13 SEC issued subpoenas to Stanford Group employees asking for
14 information.

15 A. Okay.

16 Q. So my question is, don't you agree that one way an SEC
17 enforcement proceeding can come to light is if witnesses who
18 receive subpoenas disclose those subpoenas to the public?

19 A. Sure.

20 Q. And because SEC enforcement proceedings are normally
21 non-public, information about an SEC enforcement proceeding
22 would be particularly noteworthy, wouldn't it?

23 A. It could be, yes.

24 Q. Almost as noteworthy as a man standing behind a
25 \$20 million plexiglass box.

1 A. Is there a question there?

2 Q. Sure. That was noteworthy, wasn't it?

3 A. It was an interesting picture.

4 Q. Yes.

5 MR. POWERS: Pass the witness, Your Honor.

6 MR. PETRIE: Brief redirect, if I may, Your Honor?

7 REDIRECT EXAMINATION

8 By Mr. Petrie:

9 Q. You were asked some questions about witnesses' testimony
10 of which you were or were not aware. Did you review
11 deposition testimony --

12 A. I did.

13 Q. -- that was taken prior to trial?

14 A. I did.

15 Q. Did you review deposition testimony from Ms. Dokken?

16 A. I did.

17 Q. You've been in the courtroom for Mr. Espy's deposition
18 testimony.

19 A. I was.

20 Q. Were you in the courtroom the preceding day for
21 Mr. Rodriguez-Tolentino's testimony?

22 A. I was.

23 Q. Were you in the courtroom for Mr. Davis' testimony?

24 A. I was.

25 Q. Have you looked at the deposition testimony of

1 Mr. Magness?

2 A. I did.

3 Q. Did you look at the deposition testimony from

4 Mr. Armstrong?

5 A. I did.

6 Q. Did you look at the deposition testimony from Mr. Sutton?

7 A. I believe so, yes.

8 Q. Mr. Powers asked you some questions about your awareness
9 of the entities and kind of changed gears on you.

10 The Stanford Group Company entity, the broker-dealer, is
11 that one that you had at least heard of by virtue of people
12 who had worked there at some point prior to this engagement?

13 A. Yes.

14 Q. Okay. And that was the one, remember, he showed you the
15 deposition on the screen.

16 A. Yes.

17 Q. You understand that the Stanford International Bank, at
18 least during the time period we're looking at, was held out as
19 being a separate entity.

20 A. Yes.

21 Q. And did you at any point in time before becoming involved
22 in this engagement, had you ever heard about the Stanford
23 International Bank, that separate entity?

24 A. Like I said, I'm pretty sure I did. I just couldn't nail
25 down when.

1 Q. In the context of your opinion about selling concentrated
2 positions, Mr. Powers asked you about the fact that there have
3 been in the course of this case showings of sales of stock
4 that took place historically over time. Correct?

5 A. Correct.

6 Q. And he didn't ask you anything about the timing of those
7 sales of the stock. Right?

8 A. He didn't ask me anything about the timing, nor the
9 volume, nor when they occurred or --

10 Q. Well, he at least asked you about the dollar amount,
11 which would give you at least some harbinger of volume.
12 Right?

13 A. He did, in general time frames.

14 Q. Okay. I mean, we could do the arithmetic if we had
15 prices at the time and figure out the volume from there.
16 Right?

17 A. We could.

18 Q. In the information that you reviewed, did you look at
19 whether the sales to which he's referring that took place in
20 the 2007 time frame were sales that took place in very short
21 order, as would be the case with a margin call?

22 A. I did not.

23 Q. Was your testimony referring to sales in the context of
24 the relatively short windows that would be the case if one
25 were to face a margin call?

1 A. Yeah. When I reviewed those I was looking in that
2 circumstance at that time.

3 Q. Okay. Now, looking at an SEC investigation--this will be
4 the last topic I'll discuss with you, sir--is it your
5 understanding that if the -- if the sec is investigating you,
6 if an entity, a broker-dealer, for example, that the
7 broker-dealer must have done something wrong?

8 A. No; quite to the contrary.

9 Q. What's to the contrary?

10 A. I've seen it where you've been found that you weren't
11 doing anything wrong.

12 Q. So, in your opinion, does the fact of an investigation
13 necessarily communicate to somebody that there's something
14 wrong here?

15 A. No, it's just an investigation. At that point they have
16 not made a decision.

17 Q. Thank you.

18 MR. PETRIE: Those are all the questions I have,
19 Your Honor.

20 MR. POWERS: No further questions, Your Honor.

21 THE COURT: Thank you, sir. You may step down.

22 THE WITNESS: Thank you.

23 MR. PETRIE: With that, Your Honor, we rest.

24 THE COURT: All right. We need to do a little bit
25 of paperwork at this point, so I'm going to ask you-all to

1 step back to the jury room for a couple of minutes, and we'll
2 be back with you shortly.

3 (Whereupon, the jury left the courtroom.)

4 THE COURT: Be seated.

5 Mr. Sadler?

6 MR. SADLER: Yes, Your Honor.

7 There are two matters that we need to take before the
8 jury comes back, and I'll speak to the first one which is our
9 motion that we bring now under Federal Rule of Civil Procedure
10 50(a)(1) for judgment as a matter of law, now that the
11 Defendants have been fully heard on their affirmative defense.

12 I am mindful of the time, so with Your Honor's position I
13 would like to address in about three minutes the two issues,
14 and with the Court's permission we will file a full and
15 complete written motion later this afternoon, if that's
16 appropriate.

17 THE COURT: That's perfectly good.

18 MR. SADLER: Thank you, Your Honor.

19 I want to hand a case up to Your Honor, if I may. And
20 I'll have a copy for counsel.

21 Your Honor, we bring a motion for judgment as a matter of
22 law on two points. One is an estoppel point, which I'll
23 address momentarily, and the second is the point provided
24 under the rules that there's not legally sufficient evidence
25 that the Defendants lacked actual notice or that they lacked

1 inquiry notice. And the reasons for the second point will be
2 fully -- more fully set forth in our brief.

3 Your Honor, I want to bring to you this very important
4 legal point that has arisen from the evidence in the case.
5 The case I have now put before you is the *In Re: Davidson*
6 case, which is a Fifth Circuit case that addresses the
7 following circumstance which we have in our case.

8 In *Davidson* a party made a statement to the Internal
9 Revenue Service on a tax return, and then in later legal
10 proceeding the party took the diametrically opposite position
11 in that case--it was a bankruptcy case--to try to achieve a
12 different result. And although the bankruptcy court said that
13 was okay and the district court said that was okay, the Fifth
14 Circuit said that's not okay, and that the party was estopped
15 from changing positions.

16 Why is that relevant here? In this case we have
17 testimony, as Your Honor has heard, both from Mr. Magness and
18 from Mr. Knudson--Mr. Knudson is president of Mango Five who's
19 a fiduciary of one of the Defendants--that they were
20 completely unconcerned about Stanford International Bank in
21 October 2008.

22 And if I may just very quickly put Plaintiff's Exhibit
23 482, and go to the last page, if we can, and blow that up for
24 Your Honor to see on the screen -- on your monitor. In tax
25 returns filed with the Internal Revenue Service, and as

1 Mr. Magness testified, they were filed, they were accepted by
2 the Service, so he accepted the benefits of this tax filing,
3 they took the diametrically opposite position. They said they
4 were unconcerned in this tribunal in front of this jury, but
5 to the IRS they said just the opposite--that they were
6 concerned about their investment in the Stanford International
7 Bank. And we submit under the *In Re: Davidson* case they are
8 completely, conclusively estopped from taking a different
9 position in this case, and we would be entitled under the
10 estoppel theory for judgment as a matter of law on the
11 affirmative defense.

12 I want to be mindful that the jury is waiting, Your
13 Honor. I could say more. Let's save that for another time,
14 with the Court's permission. But those are the bases I wanted
15 to be clear for our motion.

16 THE COURT: All right. If the Magness parties want
17 to respond to the written motion, I would be happy to look at
18 that tomorrow, or some other time.

19 MR. PETRIE: I'm not sure when we're going to get
20 it, so I may be unwise to agree to tomorrow until I know the
21 delivery time, but certainly we would like to respond.

22 And if I may sort of address with the same brevity the
23 estoppel point, since I'm not sure if that's coming in the
24 papers or we're supposed to consider it independently.

25 THE COURT: I understood it would be in the papers.

1 MR. SADLER: Yes, sir. Yes, sir.

2 THE COURT: In that case we can just respond to the
3 papers. Or can respond now, if you prefer it.

4 THE COURT: No, I would prefer a written response
5 after reflection, to the extent you feel it's needed.

6 MR. PETRIE: Thank you. Appreciate it.

7 THE COURT: And when were you guys going to file?

8 MR. SADLER: It should be filed by 6:00 p.m. We
9 will make sure it's filed by 6:00.

10 THE COURT: Okay. And if you-all need more time to
11 respond to that, that's fine. There's nothing magic about
12 tomorrow morning.

13 MR. PETRIE: Okay.

14 THE COURT: Don't kill yourself, in other words.
15 You've got other stuff to deal with.

16 MR. PETRIE: I will try not to. Perhaps if when we
17 see what the nature of the beast is at 6:00, or relatively
18 shortly thereafter, I can advise you tomorrow morning as what
19 I propose as to a response time?

20 THE COURT: What about Tuesday morning.

21 MR. PETRIE: That's fine. That is doable under any
22 circumstance.

23 THE COURT: Okay. Let's just say Tuesday, because I
24 know that you-all are busy with other stuff.

25 MR. PETRIE: I appreciate it, Your Honor. Thank

1 you.

2 MR. POWERS: Your Honor, if I may, briefly.

3 THE COURT: Yes.

4 MR. POWERS: We are about to call Mr. Janvey. And I
5 am mindful of Your Honor's ruling about the motion in limine
6 concerning statements in other cases for inconsistency or
7 impeachment. My concern is that Mr. Janvey may be asked on
8 the stand about whether he has said in certain cases a certain
9 category of injury is inherently undiscoverable. I think Your
10 Honor has addressed that in the *Alguire* order and said that's
11 a different issue, and so I'm seeking the Court's
12 clarification about Mr. Janvey being asked about the inherent
13 undiscoverability issue which the Court has already concluded
14 is a separate issue from whether these particular Defendants
15 could have reasonably discovered the fraud based on the
16 information that was available to them.

17 THE COURT: I think that's something that you can
18 address in redirect, and I'm happy for you to do that.

19 MR. POWERS: Thank you, Your Honor.

20 THE COURT: Anything else?

21 MR. SADLER: No, Your Honor.

22 THE COURT: Okay. Let's bring them in.

23 (Whereupon, the jury entered the courtroom.)

24 THE COURT: Be seated.

25 The Receiver may proceed.

1 MR. POWERS: Thank you, Your Honor.

2 We call Ralph Janvey.

3 THE COURT: Could you raise your right hand, please,
4 sir?

5 THE COURT: The Receiver may proceed.

6 MR. POWERS: Thank you, Your Honor.

7 RALPH JANVEY, SWORN,

8 DIRECT EXAMINATION

9 By Mr. Powers:

10 Q. Mr. Janvey, can you please introduce yourself to the
11 jury?

12 A. Yes. My name is Ralph Janvey. I've lived in Dallas for
13 over 30 years. I'm an attorney by trade. And I was an
14 adjunct law professor at SMU Law School for over 20 years,
15 teaching corporate and securities law.

16 Q. And can you please explain your role in this case?

17 A. I'm the Receiver appointed by a court over Allen Stanford
18 and the Stanford Group of Companies.

19 Q. Mr. Janvey, do you still have a law practice?

20 A. I do. I still practice law full time.

21 Q. And what's the name of your law firm?

22 A. The name of my law firm is Craig and Janvey, LLP.

23 Q. And can you tell us a little bit about your law practice?

24 A. The law practice consists of representing clients in
25 areas of federal and state securities laws, helping them

1 comply with the law. I represent broker-dealers, investment
2 advisors, help companies raise capital, and I also have done
3 hedge fund work over the years.

4 Q. Now, before being appointed as the Receiver for Stanford,
5 had you previously served as a receiver in other cases?

6 A. Yes, I have.

7 Q. And tell us a little bit about your experience in that
8 regard.

9 A. I've been a receiver in approximately three other cases.
10 For example, one involved in investment advisory fraud
11 involving residents of Mexico and the United States.

12 Q. And I should have asked you, perhaps, to start with this,
13 but can you just explain to the jury what is a receiver
14 exactly?

15 A. A receiver is a person who is appointed by a court when a
16 business is being run where the creditors are endangered.

17 Q. And once the receiver is appointed, what is it that a
18 receiver does?

19 A. A receiver, under the terms of a court order, takes
20 control of the businesses and runs those businesses, or really
21 takes control of the assets with the benefit of what's going
22 to make the maximum distribution to the creditors.

23 Q. Now, how is it that a receivership actually begins in the
24 first place?

25 A. It starts with the filing of a lawsuit. In this case, a

1 federal agency, the SEC, filed a lawsuit and asked a federal
2 court to appoint a person to take over control of the assets
3 of Allen Stanford and the Stanford Group of Companies.

4 Q. And so is there an order of the court appointing you as
5 the Receiver for the Allen Stanford enterprises?

6 A. Yes. There is a court order that appointed me to be the
7 Receiver over Allen Stanford and the Stanford Group of
8 Companies.

9 Q. All right. Let's take a look at Plaintiff's Exhibit
10 459 on the screen. And is Plaintiff's 459 the order
11 appointing you as sever?

12 A. Yes, it is.

13 Q. All right. We won't go through every provision of the
14 order, but I want to ask you about some of the provisions.
15 Please take a look at paragraph 1.

16 MR. POWERS: And Mr. Jarrett, if we could scroll
17 down so we can get all of paragraph 1 on the screen.

18 Q. (BY MR. POWERS) what does paragraph 1 provide?

19 A. Paragraph 1 provides that the Court takes exclusive
20 jurisdiction over all the assets that are owned by Allen
21 Stanford and the Stanford Group of Companies, and they come
22 under the control of the Court itself. That includes all
23 physical assets, all books, records, computers, financials,
24 everything that's related to the Stanford Group of Companies.

25 Q. Okay. And the Receivership assets and the Receivership

1 records, is that what's referred to as the Receivership
2 estate?

3 A. Yes. That's defined in paragraph 1. And that's
4 Receivership assets and records, and that's known as the
5 Receivership estate. That's correct.

6 Q. So everything Allen Stanford and his companies owned.

7 A. That's correct.

8 MR. POWERS: All right. Let's take a look at
9 paragraph 2. If you could just scroll down a little bit more.

10 Q. (BY MR. POWERS) And what does paragraph 2 provide?

11 A. Paragraph 2 provided that I have been appointed the
12 Receiver over the Receivership estate, and have all the powers
13 of Receiver that are set forth in the order, with the basic
14 primary power to make distribution to claimants who file
15 claims in the Receivership.

16 Q. Now, as Receiver, if you're managing all of the assets
17 and you have control over all of the records, does that mean
18 that you are essentially running Mr. Stanford's securities
19 businesses?

20 A. No. When I took over, the Court took control of those
21 companies. And Stanford was a fraud. Stanford lived by
22 stolen money. So we took over the Stanford companies under
23 the Court jurisdiction. There was no viable business to keep
24 ongoing, so the business was shut down.

25 Q. Now, at a high level, what are the general categories of

1 work that you started doing once you were appointed to be
2 Receiver?

3 A. Broken down to the following categories: Basically take
4 control of the Stanford company, its books, records, assets;
5 examine those, and determine how we liquidate the assets in
6 the Receivership for the benefit of the creditors; investigate
7 various transactions to see who has money which should belong
8 back to the Receivership, as well where certain money may be
9 located around the world; and finally, to work with federal
10 and state agencies to help them prosecute various people who
11 may have committed either crimes or civil problems.

12 Q. Let me just ask you a couple of questions, follow-up
13 questions about some of that work.

14 You said taking control of the Stanford businesses. Just
15 give us a sense what was the scale of the operations that you
16 had to take over when you were first appointed?

17 A. When I was first appointed, we took over the following,
18 basically. Stanford had approximately 130 companies, did
19 business in 13 countries, and had over 3,000 employees. He
20 also had offices under Stanford Group Company in various
21 cities around the United States. He had houses. He had
22 airplanes. He had yachts. He had locations in St. Croix. He
23 had assets in England, Switzerland, Montreal, and other
24 countries. And one of my duties as Receiver was to get
25 control of all that so we could liquidate the assets for the

1 benefit of the creditors.

2 Q. All right. Now, taking the work that you just described
3 and the general categories of work, are there specific
4 provisions in the Receivership order that address or explain
5 your duties as Receiver?

6 A. Yes, there are. It's basically paragraphs 4 and 5.

7 MR. POWERS: All right. Let's go to those. If we
8 could turn to the next page and look at paragraph 4.

9 Q. (BY MR. POWERS) Can you tell us what paragraph 4
10 provides?

11 A. Yes. Paragraph 4 basically says that I as the Receiver
12 have the completely and exclusively control and power and
13 custody of the Receivership estate and, just as importantly,
14 assets that are traceable to the estate, which means money has
15 gone out which I believe belongs back to the Receivership
16 estate.

17 MR. POWERS: All right. And let's look at
18 paragraph 5. It has some sub paragraphs under it.

19 Q. (BY MR. POWERS) What is generally covered by
20 paragraph 5?

21 A. Paragraph 5 says that I am specifically directed and
22 authorized to perform the following duties that are enumerated
23 in paragraph 5.

24 Q. All right. And, again, we won't look at every single
25 one, but I want to ask you about a few of them.

1 MR. POWERS: Can we turn to the next page and look
2 at paragraph (c), please?

3 Q. (BY MR. POWERS) Can you explain to the jury what
4 paragraph (c) is about?

5 A. Yes. Basically paragraph (c) says I have the right to
6 bring lawsuits to recover assets back to the Receivership.

7 Q. And this lawsuit would be an example of that.

8 A. That's correct.

9 MR. POWERS: Let's take a look at the next page, and
10 I want to look at paragraph 5(j).

11 Q. (BY MR. POWERS) And can you tell us what paragraph 5(j)
12 is about?

13 A. Yes. Paragraph 5(j) sets forth my primary mandate, which
14 is to make distributions to claimants, the people who have
15 lost money in the Stanford fraud, the assets I recover. My
16 duty is to disburse to them the money that we collect.

17 Q. Now, have you handled the Receivership tasks and duties
18 all by yourself?

19 A. No. I've had a team of people to assist me. To give you
20 some -- again, the background, we're dealing with a worldwide
21 receivership, so I had to hire a group of people to assist me,
22 a team of people to assist me in taking control of the assets,
23 winding them down, investigating various causes of action,
24 being involved in liquidating various assets for the benefit
25 of the creditors. So it's a whole team of professionals that

1 I had to engage to assist me in that.

2 Q. Well, is there something in the Receivership order that
3 deals with hiring professionals to assist you and
4 administering the Receivership estate?

5 A. Yes, there is. I believe it's on the next page.

6 MR. POWERS: Can we zoom out of that and look at
7 paragraph 5(h)?

8 THE WITNESS: Paragraph 5(h) authorizes me to employ
9 agents, consultants, lawyers, and investigators to assist me
10 in performing my duties, which is set forth in paragraph 5 of
11 the order.

12 Q. (BY MR. POWERS) And is there a provision in the order
13 that addresses compensation of the professionals that you
14 hire?

15 A. It's paragraph 5(m), like in Mary.

16 MR. POWERS: All right. Can we take a look at that?
17 I believe it's on the top of the next page.

18 Q. (BY MR. POWERS) And what does paragraph 5(m) provide?

19 A. 5(m) provides for a process where I, as the Receiver,
20 file with the Court applications to pay professionals. It's a
21 rather detailed process. The Court then reviews it. And if
22 the Court's satisfied that the fees are reasonable, the Court
23 will then approve the payment of those fees. I only pay those
24 fees after the Court's made an assessment the fees are
25 reasonable.

1 Q. And where does the money come from that pays the fees
2 that are approved by the Court as reasonable?

3 A. The Receivership estate.

4 MR. POWERS: All right. And if we could turn to the
5 last page of the exhibit, please.

6 Q. (BY MR. POWERS) And the Court order was signed on what
7 date?

8 A. February 16th, 2009.

9 Q. And who was it signed by?

10 A. It was signed by Judge Reed O'Connor, who appointed me in
11 paragraph 2 to be the Receiver over Stanford and the Stanford
12 Group of Companies.

13 Q. All right. I want to talk to you a little bit about the
14 investigation tasks that you described.

15 Did you hire somebody specifically to assist you with the
16 investigation of the Stanford fraud?

17 A. Yes. I hired a person by the name of a Karyl Van Tassel,
18 who was with FTI Consulting. You'll hear from her later in
19 this trial. She is my lead investigator and primary forensic
20 accountant. And she and a team of people have analyzed the
21 Stanford transactions for the past eight years assisting me in
22 performing my duties under paragraph 5.

23 Q. Before this receivership order was entered, can you tell
24 us the circumstances under which you were approached about the
25 possibility of serving as Receiver?

1 A. In February 2009 I was giving a speech at the Dallas Bar
2 Association, and I was approached by an official of the SEC,
3 and he asked me if I've ever heard of Stanford. And I said,
4 "Do you mean Stanford University?"

5 And he said no. He said Stanford Financial.

6 And I said, "I've never heard of it, no."

7 Q. So what happened next?

8 A. He then asked me -- they were going to be a receivership
9 order against Stanford Financial the following week, and would
10 I be interested in being a receiver. Since I've been a
11 receiver for the SEC a few times before, I said I would
12 certainly work for them in doing that.

13 Q. I gather the SEC ultimately filed the lawsuit and that
14 led to the receivership order being entered.

15 A. That's correct.

16 Q. We've heard a few different dates, and so I wonder if you
17 could just help us get it all sorted out.

18 The order was signed on the 16th, I think Mr. Magness
19 said the 18th, and I think we may have heard the 17th. So
20 just help us get sorted out how the days worked.

21 A. Sure. The order was signed on February 16th, which I
22 believe is a Monday. I think it was Presidents holiday. We
23 put together a group to come into the Stanford Group of
24 Companies on February 17th, which is Tuesday. And we came in,
25 and it was sort of like a task force because, remember,

1 Stanford had offices all around the country. He Had offices
2 in Memphis. He had offices in Baton Rouge. He had offices in
3 Houston. So we put together a team, along with U.S. Marshals,
4 where we hit all the Stanford offices that morning and some
5 the next day, and we took control of all the offices, all the
6 books and records under the terms of the receivership order.

7 Q. In addition to the proceedings that the SEC brought, and
8 any other proceedings that you may have brought pursuant to
9 the authority of the receivership order, have there been other
10 court proceedings relating to the Stanford fraud?

11 A. Yes. The Department of Justice has brought criminal
12 cases against various people in connection with the Stanford
13 Ponzi scheme.

14 Q. And who has the Department of Justice prosecuted?

15 A. They prosecuted Allen Stanford, James Davis, Laura
16 Pendergest-Holt, Mark Kuhrt, and Gil Lopez.

17 Q. And is there anyone else who was indicted in connection
18 with this fraud?

19 A. Yes. They also indicted a gentleman by the name of Leroy
20 King, who was the primary regulator for the agency that
21 regulated Stanford International Bank in Antigua, but he's
22 still sitting in Antigua waiting to be extradited.

23 Q. Now, we've obviously heard about Mr. Stanford, and we've
24 heard some -- well, we saw Mr. Davis testify. Right?

25 A. Yes, we did.

1 Q. And he was testifying from prison?

2 A. Yes. He was in prison at the time he testified.

3 Q. And we've heard about Ms. Pendergest-Holt.

4 Who are Mr. Lopez and Mr. Kuhrt?

5 A. They were the two chief accountants who assisted Davis
6 and Stanford in perpetrating the fraud over the years that it
7 was engaged in.

8 Q. And what was the outcome of the proceedings against
9 Mr. Stanford, Mr. Davis, Ms. Pendergest-Holt, Mr. Lopez, and
10 Mr. Kuhrt?

11 A. They all either pled guilt or they were found guilty by a
12 jury of criminal violations.

13 Q. And were they sentenced to prison time?

14 A. Yes.

15 Q. What was Mr. Stanford's sentence?

16 A. Mr. Stanford was sentenced to 110 years in the federal
17 prison, in which he's currently serving.

18 Q. We've talked about the criminal proceedings and the SEC's
19 civil proceeding. How is it that the SEC came to be looking
20 at Stanford in the first place?

21 A. Well, the SEC had been looking at Stanford over a number
22 of years, but they finally brought a formal proceeding in 2005
23 where they investigated what actions Stanford was taking,
24 especially Stanford Group Company, and they filed the lawsuit
25 in 2009.

1 Q. Okay. I want to change gears a little bit and talk to
2 you a little bit about the SIB or Stanford International Bank
3 fraud, and just at a very general level, without getting into
4 too much detail, how it worked.

5 Let's look at Plaintiff's Exhibit 123. And Mr. Janvey,
6 if you could try to look at it on the screen, and if that's
7 not working let me know and I'll give you a copy.

8 A. That's fine.

9 Q. This is one of the marketing brochures that was used by
10 Stanford. I think we've seen this before. Do you recognize
11 it?

12 A. I do. And that's a picture of the bank in Antigua on the
13 cover page.

14 Q. All right. Can you describe for us generally what it is
15 that Stanford International Bank told the investing public
16 about its CD program?

17 A. He told the investing public that it was a liquid asset
18 investing in diversified category of marketable securities.
19 So liquidity and marketable securities were the key points he
20 made in his marketing materials.

21 Q. Did you see the testimony of Mr. Wilk yesterday where he
22 claimed that the CDs' performance was linked to the
23 performance of I think he called it a basket of money
24 managers, and how it was somehow disconnected from the bank's
25 own balance sheet? Did you see that testimony?

1 A. I did see that testimony.

2 Q. Have you seen any marketing materials from Stanford that
3 line up with that characterization?

4 A. No. Stanford's never published any materials either
5 being hedge fund or acting like a hedge fund in any of their
6 marketing materials. It was always basically a CD, liquidity,
7 and diversified portfolio of marketable securities.

8 Q. And I think you referenced hedge fund. I think Mr. Espy
9 said that they received some information or they thought of
10 the investment as a hedge fund. You're saying that's not the
11 way it was characterized to the investing public.

12 A. No. A hedge fund is an illiquid, long-term investment as
13 a general rule. This was marketed as a liquid investment with
14 marketable securities that could be marketed and sold fairly
15 quickly. That's almost the opposite of a hedge fund.

16 MR. POWERS: All right. Well, let's look at
17 Plaintiff's Exhibit 123 at page -- we'll start at page 5 of
18 the exhibit, which will have number 120346 in the bottom right
19 corner.

20 Q. (BY MR. POWERS) And can we see any of the messages
21 regarding liquidity that you've described for the jury?

22 A. Yes. That page says the highest degree of liquidity, and
23 the bank's assets are invested in the well-diversified
24 portfolio of marketable securities issued by stable
25 governments, strong multinationals, and major international

1 banks.

2 MR. POWERS: All right. Let's take a look at the
3 next page, 120347, if we could.

4 Q. (BY MR. POWERS) And what is the bank messaging here on
5 page 7 about the source of the bank's earnings?

6 A. The bank's saying its earnings -- primary source of
7 earnings are from global investments. It's also saying the
8 bank does not make loans. It's not a commercial bank. So
9 it's saying we make our money from making investments, which
10 they talk about on the prior page about well-diversified
11 marketable securities.

12 Q. And what does it say about how interest rates are set or
13 determined?

14 A. It states that interest rates are reviewed -- are set and
15 reviewed quarterly by the board of directors of the bank.

16 Q. And when the board of directors sets the rates, what is
17 it that the rates are based on?

18 A. They're based on what the board believes they need to set
19 the rates to to market the CDs to the public, and they --
20 that's what they look at.

21 Q. Now, was SIB actually operated in the way described in
22 the brochure?

23 A. No; absolutely not.

24 Q. How was SIB operated?

25 A. SIB was operated -- it was a fraud. It took money from

1 new investors, it stole it, and it used it to do a number of
2 things--first of all, paying prior investors their rates of
3 return, redemptions, maturities.

4 It also used it to support Allen Stanford's lifestyle.
5 And you have to remember Allen Stanford portrayed himself as a
6 billionaire, and he used the money from investor CDs to enable
7 him to do it.

8 It also used money to continue marketing the CDs to the
9 public so they could keep on operating a Ponzi scheme.

10 Q. For context, can you describe how big the Stanford fraud
11 was in a historic sense?

12 A. The Stanford fraud, from the number of victims, is the
13 largest Ponzi scheme in U.S. history. And I mean by that
14 there are 18,000 victims. That is the largest Ponzi scheme in
15 the U.S.

16 Q. At the time you were appointed Receiver, approximately
17 how much was reflected on the books of Stanford International
18 Bank in deposits?

19 A. Approximately \$7.2 billion.

20 Q. And when you took over, did you find \$7.2 billion, or
21 something close to \$7.2 billion in assets?

22 A. Nowhere near that. When we came in we found less than
23 \$1 billion of assets worldwide, which means there was a hole
24 between 7.2 billion and the less than 1 billion we found.

25 Q. So if you found less than a billion dollars and \$7.2

1 billion had come into the bank at some point, where did all
2 the money go?

3 A. The money all went to perpetrate the fraud. It went to
4 run the Ponzi scheme, to support Allen Stanford's lifestyle,
5 to pay old investors' return on their money, and to continue
6 marketing the CDs to perpetrate the fraud.

7 Q. Mr. Stanford was the owner of the bank. Is that right?

8 A. Yes.

9 Q. Did he have a functional role within the bank?

10 A. He was known as chairman of the board.

11 Q. Was there somebody at the bank who ostensibly was in
12 charge of the day-to-day operations of the bank?

13 A. Yes. That was Juan Rodriguez-Tolentino, and he was the
14 president of the bank.

15 Q. And that's who we saw testify yesterday here in court.

16 A. That's correct.

17 Q. And, of course, we saw Mr. Davis testify as well?

18 A. Yes, we did.

19 Q. All right. Mr. Davis, he pled guilty. Is that right?

20 A. He did. He pled guilty to a number of crimes under a
21 plea agreement.

22 Q. And I think we saw part of his plea agreement yesterday.
23 It was a little small because we had the split screen, so I'd
24 like to put it up. And we aren't going to rehash old ground,
25 but there are a couple of things in there I want to ask you

1 about. Is that all right?

2 A. Okay. Sure.

3 MR. POWERS: Can we look at Plaintiff's Exhibit 467.

4 Q. (BY MR. POWERS) So is Plaintiff's Exhibit 467 the James
5 Davis plea agreement?

6 A. Yes, it is.

7 MR. POWERS: All right. Let's take a look at page
8 11.

9 Q. (BY MR. POWERS) And what's the section that begins here
10 on page 11?

11 A. Well, in the plea agreement Davis agreed to certain facts
12 which he said were true and accurate in connection with
13 pleading guilty to his crimes, and they are listed in the
14 following few pages, and that's his factual basis for his
15 guilty plea.

16 Q. All right. Well, let me ask you about some of
17 sub-paragraphs under the factual basis for the guilty plea.

18 MR. POWERS: Let's look at page 13, paragraph (i),
19 please."

20 Q. (BY MR. POWERS) And what's set forth in paragraph (i) on
21 page 13?

22 A. Well, it basically it says that since at least 2002
23 Davis, at the request of Stanford, would have the two
24 accountants I mentioned previous, Lopez and Kuhrt, create
25 fictitious investment reports which they would provide to the

1 Antigua primary regulator of SIB on a quarterly basis, and
2 they would falsify the value of SIB's investments. They would
3 send those documents to the regulator and, as it states, SIB
4 Executive A would execute those documents. We know from
5 Davis' testimony that was Juan Rodriguez-Tolentino.

6 Q. And based on the records that you have collected and
7 observed as Receiver, have you observed that
8 Mr. Rodriguez-Tolentino was, in fact, the executive who signed
9 the documents that went to the regulator?

10 A. Yes, our records indicate that.

11 MR. POWERS: All right. Let's take a look at
12 paragraph (aa), which is on the bottom of page 17 and the top
13 of page 18.

14 Q. (BY MR. POWERS) And can you tell us what paragraph (aa)
15 provides?

16 A. Yes. Paragraph (aa) says that for a period of four
17 years, 2005 to at least February 2009, Stanford, Davis and
18 Holt, and Executive A, who we know is Mr. Tolentino, would
19 attend investor conferences and other meetings, which are
20 called the Top Producer Club, which I believe Mr. Espy talked
21 about this morning, where they would falsely tout the assets
22 and earnings of the bank, falsely tout the investment
23 strategy, and deceive the FAs, as well as investors, about the
24 role that Holt played in the management of the portfolio. So
25 they were going to the seminars and lying to the FAs about

1 what was going on.

2 MR. POWERS: All right. Now, if you could, let's
3 turn to paragraph (r) on page 15.

4 Q. (BY MR. POWERS) And what is explained in paragraph (r)
5 on page 15?

6 A. Paragraph (r) goes to 2003 where Stanford and Tolentino
7 went to Leroy King, who, remember, is the primary regulator
8 for SIB, complaining that two examiners are getting too
9 aggressive and suspicious about SIB. Stanford reassured both
10 Davis and Tolentino, don't worry about it because I have -- he
11 calls it a brotherhood, but it's called a blood oath with
12 Leroy King. We basically share blood, and I bribed him over
13 the years, and he's going to make sure these two examiners
14 don't bother you. And they were reassigned and replaced
15 because of the bribes and the agreement with King.

16 Q. And so the Davis plea agreement shows that
17 Mr. Rodriguez-Tolentino was advised of this blood oath that
18 you described and these bribes?

19 A. Yes. That's correct.

20 Q. All right. You've been talking a little about Antigua.
21 You mentioned the bank is in Antigua. Can you tell us just a
22 little bit about the island nation of Antigua?

23 A. Yeah. Antigua is a Caribbean island. When we took over
24 it had about 80,000 people was among its population.

25 Q. What kind of impact did Stanford have on the island

1 nation of Antigua when his businesses were in operation, you
2 know, in the '90s and through the 2000s?

3 A. He basically controlled the island. What do I mean by
4 that? When Stanford first came to Antigua from Monserrat, one
5 of the requirements was that he had to bail out something
6 called the Bank of Antigua to get SIB's offshore bank license.

7 He also pumped millions of dollars into the economy in
8 Antigua. He loaned the government of Antigua millions of
9 dollars. And he became the largest private employer on the
10 island of Antigua. As a matter of fact, a prime minister who
11 was opposed to Stanford told the *Wall Street Journal* in an
12 article that Stanford basically had a lien on the island
13 because of his influence through money on the island itself.

14 Q. And you're saying that the quote from the prime minister,
15 that was in the *Wall Street Journal*?

16 A. Yes. That's correct.

17 Q. All right. I want to talk to you a little bit about
18 having -- with that background, I want to talk to you a little
19 bit about the Magness defendants.

20 Can you tell us first -- and I think we have the
21 demonstrative that will help us.

22 MR. POWERS: Can with we have Demonstrative 651?

23 Q. (BY MR. POWERS) When did the Magness Defendants purchase
24 their SIB CDs?

25 A. Well, as it's shown on the screen, between December 16th

1 2004 and October 31st, 2006, in the total amount of
2 \$79 million.

3 Q. Was \$79 million a fairly typical amount for investors to
4 invest in SIB CDs?

5 A. No. From the review of the records, the average investor
6 invested \$250,000 into the bank.

7 Q. So investing this much money and so much more than the
8 average investor, did the Magness Defendants receive higher
9 rates as a consequence?

10 A. They did get higher rates because of the amount of
11 investments they put in the bank. That's correct.

12 MR. POWERS: All right. Let's take this down. And
13 can we call up Plaintiff's Exhibit 470?

14 Q. (BY MR. POWERS) And can you identify Plaintiff's Exhibit
15 470 for the jury?

16 A. Yes. That's a standard grid rate published by the bank
17 as of May 1st, 2001, and it lists the fixed CDs and the
18 maturity on the left side from 1 month to 60 months, and it
19 goes in the dollar amounts from \$10,000--and they are all
20 fixed--from \$10,000 on the left side all the way over to
21 \$2 million to \$10 million. And the fixed amounts and the
22 rates increase accordingly depending on how much you put in
23 and how long you held the maturity.

24 Q. All right. Well, let's look at the one that would have
25 been in effect on the last investment. I think the last one

1 we saw was October 31st, 2006. Is that right?

2 A. That's correct.

3 MR. POWERS: All right. So let's turn to page 11 of
4 the exhibit, which I think has 195362, and if we could blow
5 that up.

6 Q. (BY MR. POWERS) All right. So the types of CDs that the
7 Magness Defendants had, were those fixed CDs, as we see on the
8 top of the page?

9 A. Yes, they were.

10 Q. All right. And so on this one, if we look at the left
11 most column, we have a what? \$10,000 CD?

12 A. That's on the left side. That's right. That's the
13 lowest amount is \$10,000.

14 Q. So 10,000 up to the 50,000 on the left side, all the way
15 over to 5 to 10 million on the right side?

16 A. That's correct.

17 Q. All right. And so just illustrate for us, using the
18 percentage rates that are here, the concept that you describe
19 based on the amount of the investment.

20 A. Well, the more you put in, the longer the maturity, the
21 higher rate of return. So if you put in a CD for, let's say,
22 \$10 million, you would get a rate of 8.775 percent; versus if
23 you put in a CD of \$50,000 for the same 60 months, you get a
24 rate of 8.025 percent. So the more you put in, the more you
25 got in the rate of return on the grid rate.

1 Q. And I notice that on the -- in the rows, the numbers get
2 bigger as you go from top to bottom. And can you explain why
3 that is?

4 A. Yes. The longer you held it to maturity, the longer you
5 invest it to maturity, the higher the rate became. So if you
6 bought a one-month CD, for example, \$10,000, you get 4.25. If
7 you bought a one-month CD, \$10,000, for 60 months, you get 7.9
8 percent. So, again, the longer you signed up for the
9 maturity, the higher the rate would go.

10 Q. All right. So this rate card that was in effect in 2006,
11 it tops out at \$10 million, and so how were the Magness
12 Defendants' interest rates handled?

13 A. Well, the Magness Defendants, we saw, had a letter
14 agreement with Stanford where, because of the size of the
15 investments they put in, they get a higher rate.

16 Q. All right. And You found correspondence about that
17 agreement in the records?

18 A. Yes.

19 MR. POWERS: Let's pull up Plaintiff's Exhibit 27.

20 Q. (BY MR. POWERS) And I think we saw Mr. Espy provide some
21 testimony about this. And we'll try not to repeat it, but it
22 was -- again, it was small, and there are a couple of
23 additional things I want to ask you about.

24 A. Okay.

25 Q. So this is dated September 26, 2006.

1 A. That's correct.

2 Q. And the subject matter of the letter is what?

3 A. CD rate grid and commission proposal.

4 Q. All right. And I think we saw earlier in this first
5 section that Mr. Stanford -- or that this agreement went up to
6 Mr. Stanford. Is that right?

7 A. That's what the letter says; that it went all the way up
8 to Allen Stanford.

9 Q. Okay. And then there was some discussion about these
10 rates here at this first bulleted section. Do you see that?

11 A. Yes, I do.

12 Q. Okay. And the first two lines of this section, what do
13 they provide?

14 A. Basically providing that if the Magness family put in, in
15 this case, an unlimited dollar amount, they would get a higher
16 rate on their CDs.

17 Q. And the first -- if they were to do that, what is the
18 first provision that they get the benefit of just under the
19 very first bullet?

20 A. The grid rate was guaranteed to never to go down as long
21 as long as the Magness family or its affiliates had deposits
22 on hand with SIB in excess of \$50 million.

23 Q. And I'm sorry. I'm at the one just above that one. The
24 Magness family rate grid shall be extended from \$50 million to
25 an unlimited dollar amount.

1 A. That was part of the letter. That's correct. It was an
2 unlimited dollar amount.

3 Q. And at the time this letter was written, how much did the
4 Magness Defendants have on deposit at Stanford International
5 Bank in principal?

6 A. \$49 million.

7 Q. All right. And then I think you told us about the next
8 one, which is the rate grid will be guaranteed to never go
9 down?

10 A. Yes. That's correct.

11 MR. POWERS: If we could turn back to Plaintiff's
12 Exhibit 123 for just a minute. And let's go to page 6, if we
13 could. And if we could highlight prudent investments, that
14 paragraph. I'm Sorry. Blow it up.

15 Q. (BY MR. POWERS) Now, when we were looking at this
16 before, it says here that interest rates are paid to
17 depositors based upon prudent investment return expectations.
18 Do you see that?

19 A. I do.

20 Q. And what does that mean exactly?

21 A. That the board of directors will decide what interest
22 rates to be paid the depositors based upon revealing the
23 investments and the expected rate of return.

24 MR. POWERS: And so if we go back now to Plaintiff's
25 Exhibit 27. And if we could zoom in again.

1 Q. (BY MR. POWERS) Here we have a promise essentially
2 coming from Mr. Stanford to the Magness Defendants that their
3 personal rates will never go down. I assume that must be
4 irrespective of market conditions?

5 A. Yes. And I think that's guaranteeing Mr. Magness that
6 the rates will never go below his guaranteed rate of return,
7 as long as he held \$50 million with the bank.

8 Q. All right. So let's take a look at the next provision.
9 And Mr. Espy I think talked about this. He said that there
10 would be an equity commission rate of a penny a share on this
11 certain family of equity positions. Do you recall that?

12 A. I do.

13 Q. And I think Mr. Espy said that that was well below
14 market.

15 And the question I have for you is, does this only apply
16 to shares that are sold out of Stanford Group Company, or does
17 it include other banks as well.

18 A. No, it specifically provides for shares that are held at
19 other investment banks. So it's not just Stanford; it's any
20 other investment bank, including Pershing, Bear Stearns, HSBC,
21 Merrill Lynch, et cetera. So wherever these securities are
22 held, if they're sold one cent share commission will be
23 applied.

24 Q. And since we're here and you mentioned Pershing, can you
25 just explain what Pershing's relationship is to Stanford Group

1 Company? Because we've heard the name Pershing a lot, but I
2 don't think we've ever heard an explanation of who they are.

3 A. Pershing was Stanford's clearing firm. What that means
4 is Stanford Group Company had a license where they didn't hold
5 securities or cash for customers. It was held by an entity
6 called Pershing which has a license to be a custodian. And
7 Pershing was Stanford Group Companies custodian or clearing
8 firm.

9 Q. So I want to ask you one more thing about the rates --
10 the rate grid that the Magness Defendants had.

11 This document talks about an attachment with a rate grid.
12 Did you find the attachment among the records of Stanford?

13 A. No, we did not find the attachment among the records at
14 all.

15 Q. So how do you know whether the Magness Defendants' rates
16 that they received were better or worse than the standard
17 rates?

18 A. I think we know because, first of all, the letter implies
19 it.

20 Secondly, we know the rates that Mr. Magness got once he
21 put in his \$30 million extra were at a higher rate than the
22 grid rate sheet, so you get the higher rates.

23 MR. POWERS: All right. Can we go back to
24 Plaintiff's Exhibit 470? This was the standard rate grids.
25 And if we can turn to page 11, please. And let's zoom in on

1 the rate grid.

2 Q. (BY MR. POWERS) What's the highest available rate on
3 this rate card?

4 A. For \$10 million held for 60 months, it's 8.775 percent.

5 Q. And that's here in the bottom right?

6 A. That's correct. It's on the 60 months on the right side
7 on the last column, rate 8.775 percent.

8 Q. And at this point in time--that is, after the Magness
9 Defendants made the additional deposit required by the
10 agreement--what was the rate that they received on their CDs?

11 A. 9.148 percent.

12 Q. And did you find any other documentation of Mr. Magness
13 receiving special consideration with respect to certificate of
14 deposit rates?

15 A. Yes, we did.

16 MR. POWERS: All right. Let's pull up Plaintiff's
17 Exhibit 204. And if we could look, please, at the bottom
18 email from Mr. Rodriguez-Tolentino.

19 Q. (BY MR. POWERS) And what's explained in Plaintiff's
20 Exhibit 204?

21 A. Well, it's explaining that they expect \$30 million more
22 from Mr. Magness. They've agreed to offer him a special rate.
23 On a four-year fixed CD they'd give him a five percent rate,
24 which is known from the grid rate that's a higher rate. So
25 they're saying if he buys a four-year fixed CD, we will give

1 him a five-year rate.

2 Q. And so that -- does that mean that he is then getting a
3 higher rate than is even reflected on the special rate sheet?

4 A. It appears that way, yes.

5 MR. POWERS: And if we could look at the top email.

6 Q. (BY MR. POWERS) There's an email from Mr. Stanford. And
7 what does Mr. Stanford have to say about all this?

8 A. He's telling Mr. Espy, "Tell Gary thanks for his
9 business. We will always go the extra mile for him. RAS."

10 MR. POWERS: All right. Now, if we could, go back
11 to Plaintiff's Exhibit 27.

12 Q. (BY MR. POWERS) I want to ask you about the final bullet
13 in the agreement.

14 We heard from Mr. Espy about this Baja Racing
15 sponsorship?

16 A. Yes.

17 Q. And that's the last -- that's addressed in the last
18 bullet of this agreement?

19 A. That's correct. It's the last bullet at the bottom.

20 MR. POWERS: And let's look at Plaintiff's Exhibit
21 89, which I think we saw kind of on the small right hand side
22 of the page. If we could just get that in full on the screen.

23 Q. (BY MR. POWERS) This is that Stanford Eagle magazine
24 that had the picture of the Baja Racing?

25 A. Yes. That's correct.

1 MR. POWERS: All right. Please turn to page 49. If
2 we could blow up the picture of the truck.

3 Q. (BY MR. POWERS) You see Stanford Group Company's name
4 right there on the -- just above the wheel?

5 A. I do see that.

6 Q. Just to the left of that, what is that insignia or decal?

7 A. That is a Stanford eagle. Stanford required that
8 everyone who worked for him put on their lapel something
9 called the Stanford eagle, and that's what that is. It's a
10 Stanford eagle, which is a symbol of Stanford.

11 THE COURT: We are getting close to break-time. If
12 you could let me know when you are at a good stopping point,
13 please.

14 MR. POWERS: This would be perfect.

15 THE COURT: Okay. Great. I was hoping you would
16 say that.

17 Let's take our afternoon break. We'll see you back in 20
18 minutes at 3:30.

19 (Whereupon, the jury left the courtroom.)

20 THE COURT: Anything else?

21 MR. PETRIE: Not from me. Thank you.

22 MR. POWERS: Not at this time.

23 THE COURT: Okay. See you at 3:30.

24 (Brief recess.)

25 THE COURT: All set?

1 MR. SADLER: I showed this to Mr. Petrie. I thought
2 I would hand up to the Court.

3 The last time Your Honor told us where you were on times,
4 it just sounded, again, like we were kind of off, so I thought
5 I would hand up to the Court our sheet.

6 THE COURT: Uh-huh.

7 MR. SADLER: And it may be I just heard Your Honor
8 wrong.

9 THE COURT: Okay. I'll look at it.

10 MR. SADLER: Yes. That's all. I just wanted you to
11 have the benefit of that.

12 THE COURT: How much more do you have? Through the
13 end of the day?

14 MR. POWERS: No. About ten minutes, Your Honor.

15 THE COURT: Ten minutes?

16 Okay. Let's bring them in.

17 (Whereupon, the jury entered the courtroom.)

18 THE COURT: Be seated.

19 The Receiver may proceed.

20 MR. POWERS: Thank you, Your Honor.

21 Q. (BY MR. POWERS) Now, Mr. Janvey, before we broke we were
22 looking at the picture of the Stanford Eagle magazine, and
23 specifically we were looking at the picture of the Mango
24 Racing truck. I want to ask you about the text that appears
25 in the Stanford Eagle next to the picture of the Mango Racing

1 truck.

2 MR. POWERS: Can we go to that text and blow that
3 up?

4 Q. (BY MR. POWERS) And tell us what is explained by the
5 text next to the picture of the truck.

6 A. Well, it says two things: number one, that Stanford made
7 a generous donation and Stanford was a lead sponsor; and that
8 the monetary contribution was not the only thing Stanford was
9 involved in--that Tom Espy was also a lead driver for the
10 Mango Racing team.

11 MR. POWERS: All right. And then if we could look
12 at the picture that is just below this text, if we could back
13 out of that.

14 Q. (BY MR. POWERS) And then on the second from the left,
15 who is pictured there?

16 A. That's Mr. Knudson.

17 Q. All right. And that's Mr. Knudson who's in court here
18 today?

19 A. Yes.

20 Q. And next to him is Mr. Espy?

21 A. That's correct.

22 Q. And we saw him testify this morning.

23 A. Yes. That's correct.

24 Q. And then next to him, who is that?

25 A. That's Mr. Magness.

1 Q. Mr. Magness, the Defendant in this case?

2 A. That's correct.

3 Q. Did you find other Stanford records relating to promotion
4 in connection with this Baja race?

5 A. Yes, we did.

6 Q. Are you familiar with Plaintiff's Exhibit 49, which is a
7 video disk?

8 A. I am familiar with that.

9 Q. And what is that? What is Plaintiff's Exhibit 49?

10 A. It's a video disk that Mr. Magness is talking about the
11 Mango race and how it works and what the sponsorship is.

12 Q. All right. Let's look at a couple of selections from the
13 video, if we could.

14 MR. POWERS: Mr. Jarrett, can you please play
15 Baja 1?

16 (Whereupon, Baja 1 of Plaintiff's Exhibit No. 49 was
17 played in open court.)

18 Q. (BY MR. POWERS) Now, we heard Mr. Espy speaking in that
19 video, and he talked about feeling fortunate to be a part of
20 Stanford, and also fortunate to be a part of Magness.

21 Did you see any information in the Stanford records
22 relating to Mr. Espy having a relationship with the Magness
23 Defendants?

24 A. Yes, I did.

25 Q. And in a relationship other than simply being their

1 broker?

2 A. Yes, I did, as far as assisting in getting sponsorships
3 and other things.

4 Q. And where is it that Mr. Espy worked throughout the time
5 that he was with Stanford Group Company?

6 A. He worked in Stanford Group Company offices, but he also
7 had an office in Mr. Magness' office, too, with his secretary.

8 Q. You said with his secretary. What does that mean?

9 A. Mr. Espy's secretary worked in the office also.

10 Q. In the Magness office?

11 A. Yes, in the Magness office.

12 Q. Let's take a look at the second segment of video. This
13 is Baja 2.

14 MR. POWERS: Mr. Jarrett, can you please play Baja
15 2?

16 (Whereupon, Baja 2 of Plaintiff's Exhibit 49 was
17 played in open court.)

18 Q. (BY MR. POWERS) Now, in that selection Mr. Magness said
19 that Mr. Stanford had helped with some expenses. Did you find
20 any documentation that the Stanford Group of Companies paid
21 any money to the Mango Racing team?

22 A. Yes, we did.

23 Q. And what was the amount of that payment?

24 A. \$20,000.

25 Q. Okay.

1 MR. POWERS: Thank you, Your Honor. I pass the
2 witness.

3 CROSS EXAMINATION

4 By Mr. Petrie:

5 Q. Mr. Janvey, let's start by going back to Exhibit PX 470
6 that you were discussing with Mr. Powers.

7 MR. PETRIE: And Mr. Jones, if you could turn back
8 to page 11 that we're looking at, please.

9 Q. (BY MR. PETRIE) You recall discussing this with
10 Mr. Powers just a few moments ago. Correct, sir?

11 A. I do.

12 Q. And what you were doing was you were comparing this
13 information, which is the grid as of March 30, 2006, and
14 applying that to the last three CDs, or comparing it to the
15 last three CDs that the Magness parties purchased on Halloween
16 of 2006. Right?

17 A. That is correct.

18 Q. And you were not able to find any different rate grids
19 that were in place between March 30 of '06 and October 31 of
20 '06. Correct?

21 A. No, we could not.

22 Q. Now, you understand that what Mr. Magness did through
23 GMIT -- you understood that was the October 31 depositor.
24 Right?

25 A. I do.

1 Q. On October 31, what he deposited was \$30 million. Right?

2 A. Yes, sir.

3 Q. He just happened to do that mechanically in three
4 \$10 million CDs. Correct?

5 A. I remember that from the schedule, it was \$30 million
6 total. That's Correct.

7 Q. You were in the courtroom when we looked at Exhibit 9.
8 Right?

9 A. That's correct.

10 Q. And that's one of the places, among many, where we can go
11 find the interest rates. Right? We look on the face.

12 A. Correct.

13 Q. Okay. And you understood that if we were to take this
14 grid and take -- take your pick. Whether it's 60 months, five
15 years, or 48 months, four years, and extend that out to
16 address \$30 million, it would be a significantly higher
17 interest rate than the 8.775 percent, just extrapolating.
18 Right?

19 A. I think I testified that the more you put in the higher
20 rate you would get.

21 Q. Well, my question is little more refined than that. If
22 we take that term, pick whichever one you want, whether it's
23 48 or 60, and you go from the top here, which is just the
24 dollar underneath \$10 million, and let's go out to a dollar
25 underneath \$30 million, your rate is going to be much higher

1 than either the 8.625 or 8.775. Right?

2 A. I agree it would be higher, yes.

3 Q. It would be higher, sir, would it not, than 9.148
4 percent, if we just extrapolate it out?

5 A. I believe it was 9.148 percent.

6 Q. That was the rate that was paid. If you extrapolate this
7 grid out, you're going to get higher than 9.148, aren't you.

8 A. I don't know the answer. I'm not very good at
9 extrapolating.

10 Q. I want to talk some about the money here. What you're
11 seeking to recover from the Magness parties is the total sum
12 of \$79,684,042.86 before we account for any sort of interest
13 pre- or post-judgment or fees. Right?

14 A. No. We're seeking \$88.2 million.

15 MR. PETRIE: May I approach the witness, Your Honor?

16 THE COURT: Yes.

17 Q. (BY MR. PETRIE) Mr. Janvey, if you would look just in
18 the notebook for the moment at the second tab, which is the
19 joint pretrial order filed in this case.

20 A. Okay.

21 Q. Do you have that document in front of you, sir?

22 A. I do.

23 Q. And this was a document that was filed by your lawyers at
24 Baker Botts, or submitted to the Court by your lawyers at
25 Baker Botts in conjunction with the lawyers for the Magness

1 parties. Right?

2 A. That is correct.

3 Q. And then Judge Godbey signed this order earlier this
4 month to govern this case going forward. Correct?

5 A. That is -- that's what it shows on page 22. That's
6 correct.

7 Q. And if you would look, sir, please, at -- let's start at
8 page 2 of the Court's joint pretrial order. There is at the
9 very top in bold on page 2 something called --

10 Before we go there, let me ask you this. You don't have
11 any reason to dispute the contentions that your lawyers made
12 in this document, do you?

13 A. No, I do not.

14 MR. PETRIE: Your Honor, may I publish this document
15 to the jury?

16 MR. POWERS: Your Honor, 402, 403.

17 THE COURT: Overruled. You can publish.

18 Q. (BY MR. PETRIE) Now, Mr. Janvey, if it's easier on the
19 screen, obviously feel free to look at it there. Let's look
20 at the top of page 2, sir.

21 Okay. And so you see that beginning at the top of
22 page 2, under the summaries of claims and defenses we have the
23 Receiver provides the following claims and defenses asserted
24 in this lawsuit. Correct?

25 A. I do see that. That's correct.

1 Q. You understand this is the section that sets forth your
2 position as advanced by your lawyers. Correct?

3 A. I understand this is the document filed with the Court
4 which sets forth my claims and defenses. That's correct.

5 Q. And let's look, sir, if you would --

6 MR. POWERS: Your Honor, I have a limine question.
7 I have a limine issue to address.

8 (Discussion at the bench, out of the hearing of the
9 reporter.)

10 Q. (BY MR. PETRIE) Mr. Janvey, it is true, sir, is it not,
11 that, in fact, what you're seeking to recover in this case is
12 principal, only the principal, no interest, on the amounts
13 that the Magness parties paid in?

14 A. That is --

15 MR. POWERS: Objection; 402, 403.

16 THE COURT: Overruled.

17 THE WITNESS: We're seeking to cover the principal.
18 That's correct.

19 Q. (BY MR. PETRIE) And there's no dispute, is there, that
20 the Magness parties deposited in Stanford International Bank
21 \$79 million over that span of time we've been looking at from
22 the fall of '04 through the Halloween of '06.

23 A. Yes. That's correct.

24 Q. And there's no dispute--there's been a little bit of
25 wiggle about the number--but that over \$700,000 was also paid

1 in addition to zero out that initial loan. Right?

2 A. Yes. Mr. Magness did pay an additional 700 something
3 thousand dollars. That's correct.

4 Q. Now, you mentioned in describing this Ponzi scheme the
5 numbers you gave the jury. And correct me if I got these
6 wrong. I believe you said 130 companies in the --

7 A. Approximately 130.

8 Q. Thank you. Approximately 130 companies.

9 A. That's correct.

10 Q. Operating in 13 countries?

11 A. That's my understanding. That's correct.

12 Q. Okay. And, again, approximately 3,000 employees?

13 A. Yes. That's correct.

14 Q. Do I have that correct?

15 A. That's correct, approximately.

16 Q. Now, let's look at what Stanford was telling people
17 towards the end of the ongoing business of the company; in
18 other words, shortly before you were appointed Receiver.

19 Let's look at in your binder, please --

20 MR. PETRIE: Excuse me. We have admitted it, so
21 let's look at Plaintiff's Exhibit 95.

22 Q. (BY MR. PETRIE) And it will come up on the screen if
23 that is easier for you to read.

24 You were in the courtroom this morning when this document
25 was brought in under Mr. Espy's testimony. Correct?

1 A. Yes, I was.

2 Q. Okay. And you understand that this is the first and only
3 edition of a monthly update that was prepared by Stanford
4 International Bank. Right?

5 A. I assume that's the first edition, and it was in December
6 of 2008. That's correct.

7 Q. And you understand this was the last edition as well.

8 A. I have no reason to doubt that.

9 Q. We haven't seen a January or February, have you?

10 A. I have not.

11 Q. And you certainly haven't published a monthly update.
12 Correct?

13 A. We have not.

14 Q. We meaning you, the Receiver.

15 A. The Receivership. That's correct.

16 Q. Can I ask you to lean forward into the mic?

17 A. Sure.

18 Q. Thank you.

19 MR. PETRIE: Now let's look at the last page of
20 exhibit 95 and see what the schemers said about this.

21 Q. (BY MR. PETRIE) If you look at the text --

22 MR. PETRIE: As a matter of fact let's backtrack a
23 page, Mr. Jones, and if you would pull up the -- Sorry. Bad
24 eyesight. Let me pull it up. Okay. If you'd scroll down,
25 Mr. Jones, please, to the discussion of the company. There

1 you go. That will certainly catch it.

2 Q. (BY MR. PETRIE) Do you see in the paragraph on the right
3 hand column, the bottom side, says 30,000 clients according to
4 the company in December of '08. Right?

5 A. That's what that says. That's correct.

6 Q. Okay. And at that point in time represents that there's
7 8 and a half billion in assets in the company at that point in
8 time. Correct?

9 A. That's what this document says. That's correct.

10 Q. But by the time we get to mid February, February 16th,
11 its to the reduced numbers that you've talked about. Correct?

12 A. That's correct.

13 Q. In any case, whether we use the company's numbers or your
14 numbers, it's one of the largest Ponzi schemes that's ever
15 happened. Right?

16 A. That's correct.

17 Q. It was not as big as Madoff. Right?

18 A. More victims in Madoff; not as large dollar-wise.

19 Q. Okay. So more people hurt but not as much money in it.

20 A. That's correct.

21 Q. Now, you understand, sir -- when you responded to a
22 question from Mr. Powers, you said the company when it was
23 operating--in other words, pre-receivership--didn't make
24 loans. Do you remember saying that?

25 A. I believe the literature says they did not make loans.

1 Q. Okay. Well, you are also aware their literature said
2 that what the company did do was that it only made cash
3 secured loans. Isn't that right?

4 A. That's correct. It did say that.

5 Q. Because what it would do is loan the money back to the
6 people who made the deposits. Right?

7 A. Yes. The context when I said it didn't make loans was in
8 connection with the paragraph in the marketing document that
9 says we do not make commercial loans.

10 Q. Okay. But what it also says is we do make cash secured
11 loans, if we went back and looked at 123. Correct?

12 A. I agree with that.

13 Q. And the loans were structured along the general
14 parameters that were discussed by the other witnesses you've
15 heard, which was this 80 percent of the amounts deposited.
16 Correct?

17 A. That was what they represented. That's correct.

18 Q. And you understood that wasn't a right that a depositor
19 had, but the depositor had, then, the ability to go to the
20 bank and say, will you loan me money not to exceed that
21 amount.

22 A. I think the depositor went to the bank and asked to
23 borrow 80 percent. That's correct.

24 Q. Let's look, sir, if we can, back at the order by which
25 you were appointed.

1 A. Okay.

2 Q. And we'll pull that up. It's 459.

3 And I want to make sure we understand. Let's look at the
4 first paragraph, Mr. Janvey.

5 This is the February 16, 2009 order you discussed with
6 Mr. Powers. Correct?

7 A. Yes, it is.

8 Q. So you're coming up now on your eight-year anniversary,
9 so-to-speak. Right?

10 A. That is correct.

11 Q. Now, this order appoints you as the Receiver not only
12 over companies, but over Mr. Stanford as an individual.
13 Correct?

14 A. That is correct.

15 Q. And over Mr. Davis as an individual. Correct?

16 A. That is correct.

17 Q. And over Ms. Pendergest-Holt as an individual. Right?

18 A. Yes. They are all defined as Defendants.

19 Q. Okay. And you understand that the case in which this was
20 brought is a case brought by the Securities and Exchange
21 Commission. Correct?

22 A. Yes, I do understand that.

23 Q. And you were appointed at the behest of -- you described
24 for us the Dallas bar association first encounter that you had
25 with someone from the SEC. Correct?

1 A. Yes. That's correct.

2 Q. So you were appointed at the request of the SEC, and then
3 this Court--not Judge Godbey, but another judge in this
4 building--signed the order. Right?

5 A. That's correct.

6 MR. PETRIE: Now, let's look at paragraph 1 of the
7 order. And just look at the -- If you can scan that up,
8 please. Or blow it up. Sorry.

9 Q. (BY MR. PETRIE) I want to make sure we understand
10 exactly what you were discussing with Mr. Powers about this.

11 Among the other things that you get here is the Court has
12 assumed jurisdiction of the books, records, et cetera,
13 essentially all of the pieces of paper and electronic media of
14 everybody in the receivership. Correct?

15 A. That is correct.

16 Q. And by virtue of the Court having jurisdiction of that,
17 you had access to all of that information as soon as you were
18 able to gather it. Correct?

19 A. As the Receiver. That's correct.

20 Q. All of my questions are to you as Receiver, not as
21 Mr. Janvey, civilian. Okay?

22 A. Okay.

23 MR. PETRIE: Then let's look at paragraph 5(d), as
24 in David. The second one from the top. Thank you.

25 Q. (BY MR. PETRIE) That's among the elaborated things that

1 you were authorized or empowered to do under this order.

2 Right?

3 A. Yes. That's correct.

4 Q. And what this provides is that simply by giving this
5 order, by presentation of this order, you have the authority
6 to have people turn over books and records to you. Correct?

7 A. That's correct.

8 Q. And further, if you need to, you can compel the
9 appearance of a person or a company--here it says entity--to
10 be examined, meaning to give testimony under oath. Right?

11 A. Yes.

12 Q. Or to produce documents. Right?

13 A. That's correct.

14 Q. And that rule there is the federal rule -- you understand
15 what that rule is. Right? Rule 45.

16 A. I depend on my lawyers to tell me what those rules mean.

17 Q. Okay. So You're not aware that Rule 45 is a federal rule
18 governing subpoenas to compel attendance of people?

19 A. I know we've issued subpoenas. If it's Rule 45, that's
20 what it is.

21 Q. Okay. Then irrespective of the rule, you're fully aware
22 that you had subpoena power as part of your tools to use to
23 gather assets. Right?

24 A. Correct.

25 Q. Or to investigate what had happened. Correct?

1 A. That's correct.

2 Q. Now, this Ponzi scheme with the approximately 130
3 companies, operating in 13 countries, with approximately 3,000
4 employees, was complicated, wasn't it?

5 A. Yes, it was.

6 Q. It was a very complex scheme. Correct?

7 A. It was very -- it was a two-decades-run Ponzi scheme.
8 That's correct.

9 Q. And the entire design of it was to conceal what was
10 really going on from the depositors. Right?

11 A. That's correct.

12 Q. And from the general public. Correct?

13 A. That's correct.

14 Q. From the Securities and Exchange Commission?

15 A. I agree with that.

16 Q. From FINRA?

17 A. I agree with that.

18 Q. And, with the possible exception of Mr. King, from
19 regulators elsewhere. Right?

20 A. I agree with that.

21 Q. Now, you mentioned in response to a question from
22 Mr. Powers that the SEC had been looking at Stanford over a
23 period of years. Correct?

24 A. Yes. That's correct.

25 Q. You have looked at the Office of Inspector General report

1 that deals with what the SEC did or did not do regarding
2 Stanford. Isn't that correct?

3 A. I looked at it a while ago. Yes, I did read it.

4 Q. Well, you're aware that the number of years over which
5 the SEC was looking at Stanford dates back into the late
6 1990s, are you not?

7 A. Yeah. My recollection is about 1997.

8 Q. Okay. And from 1997 through July 2nd of 2008, there's
9 not a peep anywhere in the public domain that the SEC was
10 looking at this company or these companies. Isn't that right?

11 A. I don't agree with that. I think there were people who
12 believed the SEC was looking at it. I think the article we
13 saw, subpoenas were issued so people knew the SEC was looking
14 at it.

15 Q. I'm sorry. I stopped in July 2nd of '08, which was
16 immediately before that article?

17 A. I think other people did know about it, though. Over the
18 years people complained to the SEC, people complained to
19 FINRA, they thought it was a fraud, they sent letters. Now,
20 the SEC didn't bring an action until 2005.

21 Q. And the SEC didn't respond to those people and say, we're
22 bringing an action. Right?

23 A. I'm not the SEC, but they did what they did. I don't
24 know if they responded.

25 Q. Well, you have access to material that the SEC developed

1 in connection with this is this. Correct?

2 A. That's correct. But we're talking about decades of SEC
3 doing work. I can't say for sure the SEC didn't respond.
4 They may have.

5 Q. Okay. You also have access to SEC materials that other
6 people don't have access to. Right?

7 A. Up to a point. That's correct, yes.

8 Q. And those are materials that the SEC provided to you to
9 assist you in your investigation. Correct?

10 A. That's true.

11 Q. Now, you told Mr. Powers that when you were appointed,
12 that this was a fraud. Right?

13 A. Yes. That's correct.

14 Q. Well, as soon as you were appointed, one of the things
15 you started to do was to investigate whether this was a Ponzi
16 scheme. Correct?

17 A. No. One of things we first did was get control of the
18 entities. We believed it was a fraud from the time we walked
19 in. The question was how did it work and how did it operate.
20 We knew pretty early on it was a Ponzi scheme, because that's
21 really what it could have been was a Ponzi scheme. It was a
22 Ponzi scheme. I'm not sure what else it would be.

23 Q. Okay. And what you did was you spent a significant
24 amount of time and money making sure that you were able to
25 prove that it was a Ponzi scheme. Correct?

1 A. Well, I think in connection with that we spent a lot of
2 time and money getting control of the assets, making sure we
3 could sell the assets properly, and investigating what
4 happened. That's correct.

5 Q. And my question was you spent a significant amount of
6 time and money investigating and trying to prove concretely
7 that this was a Ponzi scheme. Is that accurate?

8 A. No, I don't think that was my role as a receiver. My
9 role as a receiver was to bring actions that I thought people
10 should be sued for. But the SEC brought the action against
11 Stanford saying it was a Ponzi scheme.

12 Q. So you didn't view it as your role at all to investigate
13 and prove whether this was a Ponzi scheme. Is that correct?

14 A. Oh, no. We did investigate and we did prove it was a
15 Ponzi scheme. That's what --

16 Q. You spent a lot of time doing that. Right?

17 A. Yes, we did. That's correct.

18 Q. And spent a lot of money.

19 A. We did spend both.

20 Q. Now, you-all understood, even when you went in, that
21 there was -- that this bank that you were now looking at as
22 part of these 130 companies was not operated as a typical
23 commercial bank. Right?

24 A. Yes. That's correct.

25 Q. And you understood that essentially it had one product,

1 which was these certificates of deposit.

2 A. That's correct.

3 Q. And that the one source -- essentially one source of
4 funds was, then, all the people depositing money on these CDs.
5 Right?

6 A. That's correct.

7 Q. And that the two principal activities that, then, the
8 bank or the scheme operated in were to -- first, would be
9 selling the CDs, marketing them. Right?

10 A. Yes. Through a company called Stanford Group Company.
11 That's correct.

12 Q. Okay. And then once you received the money, I was going
13 to say applying it, but essentially putting it to whatever
14 uses, whether they are legitimate or not, that the monies were
15 put to?

16 A. Yes. They would disburse it the way they wanted to
17 disburse it. That's correct.

18 Q. Okay. And all of that activity was directed and
19 controlled from the United States. Correct?

20 A. The headquarters, while the bank building was Antigua, it
21 was operating control from Houston. That's correct.

22 Q. Okay. And there was no meaningful management of those
23 activities in Antigua. Correct?

24 A. No. Mr. Tolentino was a figurehead. The fraud was run
25 out of Houston and out of Memphis. That's correct.

1 Q. And so when you look at Mr. Davis' plea and
2 Mr. Tolentino's involvement as Executive A, that's part of his
3 figurehead role. Correct?

4 A. Mr. Tolentino was responsible for misleading the Antiguan
5 regulator who helped lie to the SEC.

6 Q. Okay. So you have this gentleman who I think you said
7 was awaiting extradition. Is that right?

8 A. Leroy King is awaiting extradition for years. That's
9 correct.

10 Q. Okay. Lied to the SEC. Correct?

11 A. Yes, he did.

12 Q. Certainly was not someone a reasonable investor could
13 expect, if you approached him and asked him questions, you'd
14 get the straight skinny. Right?

15 A. Mr. King lied. That's correct.

16 Q. Well, and if you were an investor approaching the
17 regulatory authorities, you would expect him to lie to you
18 just the same, wouldn't you?

19 A. I would expect so.

20 Q. And he was actually -- he was taking bribes, wasn't he?

21 A. Yes, he was. Stanford was paying him bribes out of a
22 secret bank account in Switzerland.

23 Q. And there's no way anybody could detect money coming out
24 of a Swiss bank account being paid to a government official.
25 Correct?

1 A. Not until we took over as the Receivership. That's
2 correct.

3 Q. Because that's -- you could foot it, then, through the
4 Swiss account and track where it went. Right?

5 A. That's correct.

6 Q. The investment side of the business, or maybe the
7 mis-investment might be a better term to use --

8 Let me break it down. There were funds that were
9 actually invested. A small amount. Right?

10 A. Yes, a small amount was invested. That's correct.

11 Q. And by small, we're talking still hundreds of millions of
12 dollars. Right?

13 A. It was hundreds of millions of dollars, but in comparison
14 to how much they had on deposit it was a small amount.

15 Q. Okay. And that small amount that was invested, those
16 investments were controlled through Mr. Davis and
17 Ms. Pendergest-Holt in Memphis. Correct?

18 A. That's correct.

19 Q. Then the diversion of the rest of the dollars, that was
20 something that was controlled by the five people you mentioned
21 to Mr. Powers. Correct? The two accountants, Mr. Stanford,
22 Mr. Davis, and Ms. Pendergest-Holt.

23 A. That's correct.

24 Q. Those are the people at the top who knew what was going
25 on. Correct?

1 A. That's the people -- those are the people who were
2 indicted and went to prison. That's correct.

3 Q. And they're the only ones who have been indicted and went
4 to prison. Correct?

5 A. Except for Mr. King. That's correct.

6 Q. Well, yes. Mr. King has not been indicted but not
7 imprisoned.

8 A. Yes. They're the only ones who have gone to prison.
9 That's correct.

10 Q. Okay. So, for example, Mr. Tolentino--no indictment.
11 Right?

12 A. That's correct. He's not been indicted.

13 Q. Okay. Now, those five people, in turn, lied to the
14 remainder of management in the company. Correct?

15 A. They did lie. That's correct.

16 Q. They concealed what they were doing from management.
17 Correct?

18 A. They did conceal. That's correct.

19 Q. And by virtue of having lied to management, then, the
20 next step down, those financial advisors, they were all lied
21 to about what was going on. Correct?

22 A. They did lie to the FAs. That's correct.

23 Q. Okay. And they lied to the Securities and Exchange
24 Commission when it would come in and conduct -- when it would
25 look at the company, without giving a formal label of what it

1 was doing. Right?

2 A. Yes. They did lie to the SEC. That's correct.

3 Q. Okay. These folks had no compunction about lying to
4 anybody. Right?

5 A. I think that's a fair statement.

6 Q. And there wasn't anything you saw in all the books and
7 records you reviewed that they somehow were more truthful with
8 the Magness parties than they were with all those other folks.
9 Correct?

10 A. I did not see -- well, I did not see that. That's
11 correct.

12 Q. Okay. One of the things that kind of cemented your
13 investigation was Mr. Davis' plea. Right?

14 A. It certainly gave us a key fact to how things operated
15 and how Davis was responsible with Stanford in performing
16 certain actions. Yes. That's correct.

17 Q. And you said key fact. It gave you key facts, plural.
18 Correct?

19 A. Definitely facts. The plea agreement had a number of
20 facts in it.

21 Q. Okay. And those were facts that were crucial to the work
22 that you've done since then. Correct?

23 A. They are very important to our work. That's correct.

24 Q. And he was -- do I have the chronology correct that he
25 was the first of those five people to finally start telling

1 the truth in a way that was specific and concrete in the form
2 of that statement of facts in support of his plea?

3 A. Either he did or Ms. Pendergest-Holt was about the same
4 time. But he certainly came forward pretty quickly.

5 Q. Well, Ms. Pendergest-Holt, her indictment was for lying
6 to the SEC. Right?

7 A. Obstruction of the SEC investigation. That's correct.

8 Q. And that had to do with the sort of the run-up to the
9 appointment of the Receiver. Correct?

10 A. Correct.

11 Q. And then she continued to tell fairy tales afterwards.
12 Right?

13 A. That's correct.

14 Q. Now, when you refer to Mr. Tolentino as being a
15 figurehead, what he essentially did was -- his principal
16 functions were to market -- I'm going to give you a couple of
17 them, so I'm not giving you exclusive ones. But were, for
18 example to make marketing pitches to investors. Right?

19 A. I agree with that.

20 Q. He also was essentially the tour guide when you would
21 come to Antigua if you were either an existing investor or a
22 prospect?

23 A. He was a meet and greet person. That's correct.

24 Q. Okay. And he would occasionally go out and do roadshows
25 with folks. Correct?

1 A. Yes. And he would go to the Top Producer Clubs and talk
2 to the FAs. That's correct.

3 Q. Okay. The Top Producer Club we know is folks internal to
4 the 130 companies. Right?

5 A. The Top Producer Clubs were the FAs who worked for
6 Stanford Group Company who sold the CDs.

7 Q. Okay. So -- but externally -- let's look at his external
8 functions.

9 A. Okay.

10 Q. His external presentations were the three we just talked
11 about. In addition, you heard him testify that when other
12 financial institutions would visit or conduct due diligence
13 with the bank, he was also the frontman for that. Right?

14 A. That's correct.

15 Q. And when Pershing would come and do its due diligence
16 because, as the clearing broker it needed to know what was
17 going on, he was also the frontman for that. Correct?

18 A. That's correct.

19 Q. And he was not involved in making any of the investment
20 decisions. Correct?

21 A. No, but he was involved in assisting Davis and Stanford
22 in lying to the regulators.

23 Q. Yes. I -- he was lying through his teeth when he was
24 talking to anybody who was a regulator. Right?

25 A. Correct.

1 Q. But in terms of actually deciding where the funds either
2 were applied in the couple of hundred million dollars, or
3 misapplied, he wasn't involved in that at all.

4 A. No. I don't think he had any decision-making in
5 investment authority. That's correct.

6 Q. Okay. Well, you can't even say that he had any
7 involvement at the time in where those funds were going, be
8 they a proper purpose or an improper purpose.

9 A. I don't disagree with that.

10 Q. Now, in this case, you retained an expert witness as a
11 testifying expert who hasn't -- is not scheduled to testify.
12 Correct?

13 MR. POWERS: Objection; 402, 403.

14 THE COURT: Overruled.

15 THE WITNESS: Are you talking about Mr. Post?

16 Q. (BY MR. PETRIE) I'm talking about Mr. Post.

17 A. It's my understanding he was hired as an expert. That's
18 correct.

19 Q. Okay. And you've looked at the materials that Mr. Post
20 prepared talking about his opinions, have you not?

21 A. I did a while ago. That's correct.

22 Q. Okay. And you did that because one of your duties as
23 Receiver is to stay on top of things that are happening in
24 this litigation. Correct?

25 A. That's correct.

1 Q. You're the client of Baker Botts. Right?

2 A. I am the client. That's correct.

3 Q. And so you, at least in the past, have been familiar with
4 the opinions that Mr. Post provided. Correct?

5 A. Many, many months ago; not recently. I haven't read it
6 in a long time.

7 Q. Well, you know he had a negative opinion about the role
8 that Mr. Espy played in terms of whether he properly served
9 the Magness parties. Correct?

10 MR. POWERS: Objection, Your Honor; hearsay, 402,
11 403.

12 THE COURT: Sustained.

13 MR. PETRIE: May we approach?

14 THE COURT: Yes.

15 (Discussion at the bench, out of the hearing of the
16 reporter.)

17 Q. (BY MR. PETRIE) Let's move on to a different topic.

18 You spoke with Mr. Powers about the letter that was
19 marked as 27. That's the September '06 letter that talks
20 about the three offers or --

21 A. Yes, I see that. I remember the letter.

22 Q. Okay. The first one -- we've already talked some about
23 the rates. Right? We don't need to talk about that again.
24 Okay?

25 The second part, the second bullet that you discussed

1 with Mr. Powers, what you told him was that if there was a
2 stock sold from another entity, like HSBC, that Stanford Group
3 Company would charge this commission rate? Is that correct?

4 A. No. I think it says in the language, what I meant to
5 say, is that Stanford would charge a commission rate of one
6 cent on all shares of the stocks listed below the Magness
7 family holds, regardless of where there're held, whether it's
8 at Pershing or Bear Stearns or HSBC.

9 Q. I see. So you're making a distinction between the broker
10 who's selling versus the custodian who's actually holding the
11 shares.

12 A. Yes.

13 Q. Okay. Then the third bullet point is the Mango Racing
14 deal that you discussed with Mr. Powers. Correct?

15 A. That's correct.

16 Q. And the videos we saw.

17 A. That's correct.

18 Q. Okay. And you're not aware of any benefits to the
19 Magness parties other than the \$20,000, the sticker and the
20 fact that Mr. Espy was available to be a driver, at least at
21 some point, to the extent that's a gimme.

22 A. And the benefit, if it's a benefit, of advertising in the
23 Stanford Eagle that Stanford sponsored the Mango Racing team.
24 I presume they put that in the Stanford Eagle for a reason.

25 Q. Well, it wasn't Magness that put that in the Stanford

1 Eagle, was it?

2 A. I understand that. But it was a benefit to Stanford.

3 Q. Okay. And the benefit to Stanford from having that in
4 the Stanford Eagle doesn't generate benefit for the Magness
5 parties, does it?

6 A. Not directly, no.

7 Q. Well, and it doesn't do it indirectly either.

8 A. That's probably correct.

9 Q. Okay. You wouldn't want to sponsor the Madoff racing
10 team today, would you?

11 A. Absolutely not.

12 Q. Now, you also talked some about the office that Mr. Espy
13 had in the same building as the Magness parties office.
14 Correct?

15 A. I mentioned that briefly. That's correct.

16 Q. Okay. And in your brief mention, you talked about how
17 something--and I'm just going to paraphrase--that they had an
18 office with Magness and shared a secretary. Did I paraphrase
19 that correctly?

20 A. No, what I think I said was Mr. Espy had an office at
21 Magness and his secretary -- Mr. Espy's secretary worked in
22 the office.

23 Q. Okay. Well, you don't have any idea how the physical
24 layout of the office was, except as you may have heard
25 testimony from others in this courtroom. Correct?

1 A. Yeah. What I heard this morning from Mr. Espy is what I
2 know about how it supposedly worked.

3 Q. Well, you also heard Ms. Dokken's testimony. Correct?

4 A. That's true. And I believe I saw the lease agreement a
5 while ago as an exhibit.

6 Q. Well, you know that that entire set-up--because you've
7 seen the books and records--was set up through the compliance
8 department of the Stanford Group Companies. Correct?

9 A. That's very standard. That's correct. To have an office
10 like that, it would have to be -- compliance would have to
11 approve it.

12 Q. Because what you want to do is you want to make sure that
13 you still have the ability to properly supervise your
14 employees when you're a broker-dealer. Correct?

15 A. Yes. The compliance department wants to make sure the
16 books and records are kept separately from Mr. Magness and
17 that the people who have access to those are people who are
18 properly licensed.

19 Q. Okay. And what you saw was an entire set of procedures
20 that were developed to ensure by the compliance people at
21 Stanford Group Companies to ensure that that satellite office
22 established in the Tabor Center was properly run and the books
23 were properly kept for whatever Stanford Group Companies
24 decided was appropriate.

25 A. I have no reason to disagree with that.

1 Q. Okay. You also know that that office set-up ended before
2 the first CD was bought. Correct?

3 A. I don't know when it was ended.

4 Q. You didn't look at the term for which that arrangement
5 was in place?

6 A. Not sitting here today I could not tell you the term.

7 Q. You didn't see any testimony that discussed that being
8 done by 2004?

9 A. There may be some, but I've looked at so much testimony I
10 can't tell you that.

11 MR. PETRIE: If I may have a moment, Your Honor.

12 Thank you.

13 Q. (BY MR. PETRIE) Last -- what I believe is the last
14 topic, there will be several questions, but last topic.

15 You told Mr. Powers that -- or you confirmed to
16 Mr. Powers what we all have been talking about, which is the
17 Magness parties were a significant client of the Stanford
18 International Bank. Correct?

19 A. Yes. That's correct.

20 Q. And you heard in opening that your lawyer said they were
21 the largest client, if you aggregated them, treated them as
22 one, so-to-speak, the largest North America client of that
23 institution. Correct?

24 A. I did hear that in opening. That's correct.

25 Q. Okay. So you believe it.

1 A. I certainly do believe it.

2 Q. Okay. You also understand that the Magness parties were
3 significant clients of the broker-dealer side of the house.
4 Correct?

5 A. I do understand that.

6 Q. They're what you call in the industry a whale. Right?

7 A. I'm not in the industry, but I've heard that term before.

8 Q. Well, you represent the industry. Right?

9 A. I have people in the industry I represent. That's
10 correct.

11 Q. And the people in the industry that you represent, that's
12 a term they use. Correct?

13 A. Some brokers do, yes. That's correct.

14 Q. And that's a very large, important client. Correct?

15 A. That's correct.

16 MR. PETRIE: Thank you, Your Honor. Those are all
17 the questions I have.

18 MR. POWERS: No further questions, Your Honor.

19 THE COURT: Thank you, sir. You may step down.

20 MR. SADLER: Our next witness will be, Your Honor,
21 Mr. Ray Sutton. We call Mr. Ray Sutton by videotaped
22 deposition, and we are prepared to start that at this time.

23 THE COURT: All right.

24 MR. SADLER: Thank you.

25

1 RAYMOND SUTTON, BY VIDEOTAPED DEPOSITION

2 Q. Good morning, Mr. Sutton.

3 A. Good morning, Brendan.

4 Q. What's your profession?

5 A. I'm an attorney.

6 Q. But you view Gary Magness as a sophisticated investor?

7 A. He is the capable investor. I don't really -- you know,
8 I wasn't much involved with Gary's investment activities, so
9 it would be presumptuous, I think, for me to comment on the
10 sophistication of his investment ability.

11 Q. Now, let's hold on a second. You were on the investment
12 committee with Gary Magness. Right?

13 A. I was.

14 Q. So you have some knowledge about his investment
15 capability. Right?

16 A. I do, yeah.

17 Q. And tell me about that.

18 A. I sat with Gary on the investment committee for the
19 private trust company, but that committee made no investment
20 decision related to the Stanford CDs. Those had been
21 purchased many years earlier, and were investments of the
22 trust when we created the private trust company.

23 Q. And what is your view of whether Gary is sophisticated or
24 just capable?

25 A. I would say he's capable.

1 Q. Why do you draw that distinction?

2 A. Because when you asked me to form a basis on that, I
3 think about advisors and family offices that I work with
4 across the country, and I can kind of categorize where they
5 fall in terms of investment acumen and what they bring to bear
6 in terms of advisors to the table, et cetera.

7 Q. Okay. And so where does Gary fall in that strata?

8 A. Probably at the mid level.

9 Q. So of your clients, you said Gary was kind of the middle
10 of sophistication of investments. Right?

11 A. Yes.

12 Q. And tell me why you think that.

13 A. If I was to say offices -- family offices A, B, and C
14 were very sophisticated, I would see an office of at least ten
15 people, one or more exclusively devoted to being a chief
16 investment officer.

17 Beneath that sort of apex there would be a family office
18 structure that relied on an independent investment company.
19 There's a handful of those around the country that are -- that
20 cater to high net worth, and they look at every investment
21 made by the family office, and they measure it and report on
22 the performance on a quarterly basis. Those two models are a
23 level of sophistication beyond what Mr. Magness' office had.

24 Q. Did you ever recommend to Mr. Magness or his office or
25 his entities that they should adopt a structure more like what

1 you're talking about?

2 A. I can't recall that I ever gave a direct recommendation.
3 I would be asked to say what others is doing as benchmarking.

4 Q. Uh-huh. Do you recall ever having advised them to
5 increase their capabilities?

6 A. No, not at a board meeting.

7 Q. What about outside of a board meeting?

8 A. I don't have an exact recollection of it. For a number
9 of years after the private trust company was formed, there was
10 a very highly regarded -- I had a high record for Chuck Wilk,
11 who attended our board meetings and used to work with a high
12 net worth consulting firm based out of Seattle called Quellos,
13 which also ran a hedge fund.

14 Chuck's background, I think he was Fulbright Jaworski, he
15 was a tax lawyer. And Quellos had assembled a consulting
16 group of tax lawyers from large firms and large accounting
17 firms, and Chuck's firm was hired, I believe -- I believe he
18 was hired shortly before Kim Magness died, and Kim would have
19 died in 2003.

20 Q. Okay.

21 A. And Chuck had sold it under a number of matters. We
22 hadn't settled the estate tax controversy in Bob Magness'
23 estate. We were going to need financing in order to close the
24 deal with the IR -- I mean, he just was involved in a number
25 of financial and investment related activities.

1 Q. Including with the IRS, you said?

2 A. He -- no, he was not involved with the IRS. I mean,
3 that -- that was our firm.

4 Q. Okay.

5 A. But we knew we might have a financing need to settle with
6 the IRS.

7 We knew we were going to have a financing need to --
8 after Kim Magness died to -- we knew we were going to have to
9 have a financing need to, you know, pay the estate tax, clean
10 up the debt with the estate, and so Chuck was very involved in
11 dealing with the bankers at that.

12 And then when the estate of Bob Magness closed in 2005,
13 then Chuck continued with Gary on a number of matters. And
14 Chuck and Gary would have, you know, conversations that I
15 wasn't a party to. Tonya was very involved in those
16 discussions. And usually there were finance and investment
17 related activities.

18 Q. You said that you had a tremendous respect for Chuck
19 Wilk?

20 A. I did.

21 Q. Do you still?

22 A. I do.

23 Q. And what do you know about his involvement with the
24 federal sentencing?

25 A. I know -- I know he spent some time.

1 Q. Where?

2 A. In jail.

3 Q. Federal or state?

4 A. I -- I think it was federal.

5 Q. And what was that in relation to?

6 A. I -- I think it was in relationship to the hedge fund and
7 some aggrieved investors, but that's all I really know about
8 it.

9 Q. In one of -- as you're an attorney yourself, one of your
10 primary areas that you practice in is tax. Right?

11 A. Right.

12 Q. Did you know that Chuck Wilk was indicted for tax fraud?

13 A. No. I mean, I knew that Quellos was promoting some of
14 these tax shelters, but I didn't know the nature of the fraud
15 that Chuck was indicted on. I know that from the Magness side
16 we never looked at any of those tax shelters. He never
17 offered any. At least to my knowledge he never offered any.

18 Q. So you do know there were tax shelters involved.

19 A. I do know Quellos generally had some tax shelters
20 involved.

21 Q. And it was your understanding that that was part of why
22 he was sentenced to prison?

23 A. Yes.

24 Q. And so you knew he was sentenced to prison relating to
25 tax shelters. Right?

1 A. Right.

2 Q. And I'm representing to you today that he was indicted
3 for tax fraud.

4 If those three things are true, do you still have a
5 tremendous respect for him today?

6 A. Yes, I do.

7 Q. Why is that?

8 A. Because I think he was a high integrity guy, and I think
9 he may have erred in his judgment. I don't know. There are a
10 lot of good people that got involved in the tax shelter
11 business, including most of the Big 4 accounting firms, one of
12 which was pretty much brought down by it, KPMG.

13 Q. But KPMG's still practicing today.

14 A. Yeah, but they don't have a tax -- they don't have a
15 department anymore. As part of their settlement on the tax
16 shelters that they promoted, they -- they had to abandon their
17 tax consulting business.

18 Q. Does Quellos still exist?

19 A. I don't know. I haven't heard about Quellos for years.

20 Q. If somebody came to you today and said I need -- I need
21 an investment advisor --

22 A. Uh-huh.

23 Q. -- would you ever consider recommending Chuck Wilk to
24 them?

25 A. I would.

1 Q. Would you tell them that he spent time in prison for tax
2 fraud?

3 A. Yeah, I would, yep.

4 Q. So you just absolutely trust Chuck Wilk, a guy who went
5 to prison for tax fraud.

6 A. I trust his judgment. The judgment that he exhibited at
7 the meetings that I attended was always spot on, I thought;
8 good analysis. Never once did I hear in all the years that I
9 was in meetings with Chuck anything about a tax shelter.

10 Q. Over the course of time when you were secretary for Mango
11 Five, when you created typed minutes --

12 A. Uh-huh.

13 Q. -- was there only ever one version of those minutes
14 before signature, or were there sometimes edits in additional
15 versions?

16 A. The process would be that I would dictate the minutes
17 usually once after the meeting or weeks after the meeting as
18 the next meeting was approaching, and then those minutes would
19 be in draft form and they would be sent to Tonya. And then if
20 she had any additional recollections that we wanted in the --
21 or if she had any corrections, then we would make them at that
22 point. And then we would take them, obviously, to the board
23 and ask the board to comment on any minutes.

24 Q. How long have you been an attorney?

25 A. Since 1976.

1 Q. And that was at which firm?

2 A. That was -- my first two years I practiced in northern
3 Michigan in a small firm.

4 Q. And you said there was insurance dispute issues?

5 A. We, as small firm, did everything in a small town, and
6 we -- the partners represented insurance companies and auto
7 accidents, et cetera, and so the associates would do some of
8 the minor subrogation cases.

9 Q. And then after that law firm where did you go?

10 A. I moved with my wife, who was from Denver, and I met her
11 when I was at the University of Colorado law school, and moved
12 back to Denver in 1978, and took a year and a half to get a
13 tax degree, and then stayed in Denver after that.

14 Q. You said a tax degree?

15 A. Yes.

16 Q. What is that?

17 A. It's a Master's in tax. It's a year study, year and a
18 half study, depending on if you have to work part time like I
19 did.

20 Q. And so it's not a legal degree. It's like a --

21 A. No, it is a legal degree. It's a Master's of law in
22 taxation.

23 Q. What's your primary area of practice?

24 A. Primary is tax, and when I say tax it's really trust and
25 estate planning.

1 Q. Anything else?

2 A. No.

3 Q. And how long has that been your primary area of practice?

4 A. Probably since -- well, primary, it's been my primary
5 area really since 1981 or '82.

6 Q. What investment experience or training do you have?

7 A. None.

8 Q. You have no investment experience?

9 A. I manage my own investments. Sometimes that's a good
10 experience and sometimes it's not.

11 Q. Have you received any training on investments?

12 A. No.

13 Q. But you did sit on the investment committee of Mango
14 Five.

15 A. Yes.

16 Q. Do you sit on any investment committees of any of the
17 other family offices that we talked about earlier?

18 A. No.

19 Q. So that was the one exception on investments?

20 A. Yes. I did chair the investment committee for a
21 non-profit, Metropolitan State College, for a handful of
22 years.

23 Q. Did they provide you with any training?

24 A. No.

25 Q. So earlier when we were talking about the Magness parties

1 and Gary Magness' capability of investments, that's based off
2 of your role with other family offices?

3 A. Yes, and experience.

4 Q. But you didn't sit on any investment committees for any
5 of those other offices?

6 A. No.

7 Q. And you have no investment training or experience?

8 A. No.

9 Q. So what is the basis of your statement that Gary is
10 capable but not sophisticated when it comes to investments?

11 You can answer.

12 A. I can answer?

13 Q. Yeah.

14 A. What is my basis on that? In my experience on investment
15 committees for non-profits, investment committees for family
16 offices, it's not typical that you would have that populated
17 with a majority, let's say, who have deep investment
18 credentials and experience. You hire those people.

19 So, for example, if you have an investment committee of
20 family members and a few outside advisors, then you hire
21 investment consultants, and it's a process of going through
22 and vetting the different alternatives that are available.

23 And so when I say that Mr. Magness was capable but he
24 didn't approach the sophistication of some of my other
25 clients, it's because some of my other clients went through a

1 vetting process and they would actually have an investment
2 consulting firm that would be on retainer with the office.

3 Q. What vetting process are you talking about?

4 A. Interviewing. A recent example, a large client, we over
5 a period of probably six months vetted five to six different
6 investment management firms that actually came to the family
7 office and made, you know, a several-hour presentation apiece.
8 I mean, that's the sort of vetting that I would put in the
9 category of a sophisticated investment process.

10 Q. So it's the vetting process that -- that Magness was
11 missing?

12 A. It was the openness to having a vetting process.

13 Q. So he was -- he, they, meaning the Magness parties,
14 weren't open to the idea of having a vetting process for an
15 outside investment advisor?

16 A. It was never considered.

17 Q. What about Chuck Wilk? How does he fit into this?

18 A. Well, Chuck became sort of the lead voice in the
19 investment -- in the investment world. I mean, he was the
20 voice of people, because he was -- I mean, I don't know that
21 he was, you know, a certified planner. I don't know what his
22 credentials were. But in his capacity as a member of the
23 Quellos -- I don't know if he was a principal of Quellos or if
24 he was just a key employees, but in that capacity I would say
25 that his primary duties were -- where if my primary duties are

1 trust and estate planning, his primary duties were dealing
2 with investments.

3 Q. So Gary Magness had an advisor on investments. Right?

4 A. Yes.

5 Q. There just wasn't a vetting process.

6 A. Right.

7 Q. And he also had outside brokers advising him as well?

8 A. He did.

9 Q. And he also had investment committee advising him.
10 Right?

11 A. Right.

12 Q. And would you say that Gary Magness is intelligent?

13 A. Yes.

14 Q. And capable of understanding investments?

15 A. Yes.

16 Q. Risks --

17 A. Yes.

18 Q. -- in those investments?

19 A. Yep.

20 Q. Rewards of investments?

21 A. Yes.

22 Q. Would he have an understanding of what stocks are?

23 A. Certainly. I mean, that's primarily --

24 Q. Certificates of deposit in the U.S.?

25 A. I don't know if he had an understanding of that or not,

1 to be honest with you. I don't recall that I ever saw a
2 certificate of deposit -- a U.S. certificate of deposit in
3 Gary's investment.

4 Q. But you know what U.S.-based certificates of deposit are.

5 A. Yeah. And I'm sure he knows what that is.

6 Q. I'm not asking if he had one or not.

7 A. Yeah.

8 Q. I'm just saying he can understand what they are.

9 A. Oh, yeah.

10 Q. And he can understand what a hedge fund is.

11 A. Yes.

12 Q. And he can understand what a private equity investment
13 is.

14 A. Yeah. I would say yes. I mean, his data center, for
15 example, is a private equity investment.

16 Q. And his advisors that he had, Wilk or otherwise, would
17 certainly understand those concepts --

18 A. Certainly.

19 Q. -- that we just talked about?

20 A. Right.

21 Q. And all those advisors, were they just advising Mango
22 Five, or were they advising Gary and his -- his entities?

23 A. I -- I would say they were advising Gary and his
24 entities.

25 Q. So on the sophistication front, I just want to make sure

1 I understand your full testimony, that what differentiated
2 Gary from being capable to sophistication was the retention
3 through a vetting process of investment advisors.

4 A. Yes.

5 Q. Anything else?

6 A. No.

7 Q. And as a member of the investment committee, which you
8 were. Right?

9 A. Right.

10 Q. For Mango Five? You have a fiduciary duty to Mango Five.
11 Right?

12 A. Yes.

13 Q. And did it ever concern you that Mango Five and
14 Mr. Magness' entities or himself were not sophisticated enough
15 to understand investments?

16 A. No.

17 Q. Do you advise clients yourself on investment matters?

18 A. No.

19 Q. Not even in your capacity as being involved with either
20 on the board or as an attorney for those other family offices?

21 A. Let me tell you what I do do and maybe that will help
22 you. I do not give investment advice for compensation because
23 I'm not a registered investment advisor. What I do provide my
24 family offices is a prospective of what other family offices
25 are doing in terms of best practices, and I can recommend any

1 number of potential investment advisors for them to interview
2 and vet. So that's what I do. If that's investment advice --

3 Q. Did you ever do any of what you just testified about with
4 respect to Gary Magness or his entities?

5 A. So long as Chuck Wilk was the principal advisor in sort
6 of the investment arena, no.

7 Q. So you were satisfied that Gary Magness and his entities,
8 including the Magness parties, had the resources they needed
9 to be sophisticated investors.

10 A. Unquestionably they had the resources.

11 Q. What your understanding about insolvency?

12 A. My understanding is that the balance sheet test,
13 liabilities exceed assets on a balance sheet test. I only
14 know that from the tax standpoint, because there's an
15 insolvency exception when debt is discharged to a debtor, and
16 that is generally income when there's debt discharged. But
17 there are two or three exceptions to the general rule that
18 that debt has to be taken into income, one of which is
19 bankruptcy, and the other of which is insolvency. And I have
20 dealt with that probably half a dozen times in my career.

21 Q. And I believe you told me earlier that you were managing
22 partner of the Denver office of Baker Hostetler?

23 A. I was, uh-huh.

24 Q. And you stepped down from that when?

25 A. In December 31st of 2015.

1 Q. And the reason for that was what?

2 A. Turned out by age. I turned 64 in October, and our
3 partnership agreement requires our partners to step out of the
4 equity at 64, and, hence, you have to be an equity partner in
5 order to be a managing partner.

6 Q. Did you ever tell Gary Magness that you were no longer a
7 partner at Baker Hostetler?

8 A. No.

9 Q. So if he testified that you were no longer a partner
10 there, he was just wrong?

11 A. He must -- might have misunderstood a communication I had
12 with him.

13 Q. What did you tell him about your partnership?

14 A. I didn't have a conversation with him. I had an email
15 where I resigned my positions in December. I can't recall
16 what I said, other than I was transitioning and I'm getting
17 down to a handful of clients and I'm transitioning.

18 Q. And you sent that to whom?

19 A. I would have sent that to Gary and Steve and Bob
20 Armstrong.

21 Q. So you resigned from being director --

22 A. Right.

23 Q. -- on Mango?

24 A. Right.

25 Q. And you resigned from being on the investment committee

1 of Mango?

2 A. I wasn't on the investment committee at that point.

3 Q. When did that change?

4 A. There was a change in the bylaws early on after the
5 formation of the private trust company where the bylaws were
6 amended to provide that Gary could serve as the sole member of
7 the investment committee and that he could appoint advisors.
8 So at that point in time Steve and I were advisors on the
9 investment committee. And maybe Armstrong. I can't recall if
10 he's an advisor on the investment committee. He is -- I don't
11 know if he's on the distribution committee either. But the
12 bylaws changed, which you probably have. You should have the
13 bylaws of the private trust company.

14 Q. When did that happen? I do have bylaws, but I don't know
15 about this amendment that you're talking about.

16 A. The amendment happened within a year or two of the
17 formation of the private trust company.

18 Q. And go through that. But in any case, you were at times
19 a member of the investment committee?

20 A. I was.

21 Q. And you were at times an advisor to the investment
22 committee?

23 A. Right.

24 Q. So you were an investment advisor to the investment
25 committee?

1 A. Right. I was an -- well, I wouldn't say I was an
2 investment advisor. I was an advisor to the investment
3 committee.

4 Q. Okay. When did you stop being an advisor to the
5 investment committee?

6 A. That would have been coterminous with my resignation in
7 December as the director. And I was a member of the
8 distribution committee at that time, and I resigned that
9 position as well.

10 Q. So you were an attorney for Gary Magness and his
11 affiliated entities. Right?

12 A. Right.

13 Q. When did that representation cease?

14 A. In the middle of December. I mean, I resigned all
15 relationship with the Magness entities at that point.

16 Q. And why did you do that?

17 A. I was giving a lot of thought in December as to which
18 clients that I was going to continue on after the first of the
19 year, and I had some criteria in mind. And given that
20 consideration, it just didn't make sense for me to continue.

21 Q. Now, you know I can't just let you say criteria without
22 saying what criteria, so tell me about the criteria.

23 A. Well, the fun factor, the people I was working with
24 within the client.

25 Q. You say the fun factor?

1 A. Yeah. I like -- I like to enjoy my clients. I like -- I
2 particularly enjoy working with people in the family offices
3 that I represent. And I knew I was going to have to get down
4 to a smaller number of clients because I'm working a fairly
5 reduced schedule these days. My typical year was in excess of
6 3,000 hours, and I'm down to about a thousand hours.

7 Q. So you've got the fun factor, and you've got a need to
8 reduce the number of clients.

9 A. Uh-huh.

10 Q. What were your other criteria?

11 A. Just, you know, the time commitment it was going to take,
12 the -- you know, the enjoyment of working with the people that
13 were surrounding the client. I mean, there's only -- you
14 know, when you work with these type of clients, there's
15 usually 5 to 15 people that you're working with.

16 Q. Was there anything about this fun factor that made you
17 drop Gary Magness and his entities as a client that had
18 anything to do with Stanford?

19 A. No.

20 Q. This litigation?

21 A. No.

22 Q. When we talked earlier about your resignation as a board
23 member, advisor, and member of the distribution committee.
24 Right?

25 A. Correct.

1 Q. And then you also terminated the attorney/client
2 relationship between all Gary Magness entities and him.
3 Right?

4 A. Yes.

5 Q. Why -- if I understood your testimony earlier, after
6 Tonya Dokken resigned, you saw most of those responsibilities
7 probably going to be handed to you. Right?

8 A. No. No.

9 Q. Okay.

10 A. Those responsibilities are unique to running the family
11 office, and they were going to need to -- they were going to
12 need to replace her at that level. But whoever was going to
13 come in at that point in time was going to have to draw more
14 time from me because I was the only one left with any of the
15 20-year history.

16 Q. Okay. And so I see you having the -- you wear the
17 attorney hat at times and you wear the board member hat at
18 times. Right?

19 A. Right.

20 Q. You wear the advisor hat at times. Right?

21 A. Yeah.

22 Q. The investment committee?

23 A. Yeah. Yeah.

24 Q. You wear the distribution committee member hat sometimes.

25 A. Uh-huh.

1 Q. Why terminate your attorney/client relationship instead
2 of just terminating your relationship with Mango Five as a
3 board member, advisor, and investment committee member? I
4 mean -- I'm sorry. Distribution committee member.

5 A. It -- it -- they all went together. I don't know how you
6 could reasonably separate it. I mean, you can't be part in
7 and part out.

8 Q. So he's in control of Magness Securities.

9 A. He's in control, yeah.

10 Q. And he's in control of GMAG?

11 A. Yes.

12 Q. Is he also in control of Gary Magness Irrevocable Trust?

13 A. Revocable.

14 Q. Irrevocable trust.

15 A. Irrevocable? No.

16 Q. Who's in charge of that one?

17 A. Mango Five Family, Inc. is the trustee.

18 Q. All right. Let's go to the Mango Five Family, its board,
19 its role, the committees. We already talked about some of it.
20 But just from broad perspective, what -- what is the purpose
21 of Mango Five Family, Inc.?

22 A. It is stacked as a private family trust for the Magness
23 family.

24 Q. And when you say Magness family, what does that
25 encompass?

1 A. It means Gary, his wife, and their descendents, and
2 future descendents.

3 Q. What about other relatives of Gary?

4 A. No.

5 Q. So that's when the relationship between you and Gary
6 Magness started?

7 A. I was -- I was -- I was interviewed by Gary and Kim
8 within a month of their father's death. His father -- their
9 father died in November of '96.

10 Q. Okay.

11 A. I was interviewed at the recommendation of one of the law
12 firms in town here who represented John Malone and TCI.

13 Q. Prior to that interview in late 1996, had you ever
14 interacted with Gary Magness?

15 A. No.

16 Q. Kim Magness?

17 A. Nope. Didn't know them. Didn't know Bob Magness.

18 Q. Had you heard of them, though?

19 A. Oh, yes. I mean, I -- I knew that Bob Magness was a rich
20 guy, but that was it. I always thought John Malone was the
21 driver of TCI, and so I was surprised when I was interviewed
22 and then engaged that Bob Magness actually was a more
23 substantial shareholder than John Malone.

24 Q. So in that either that initial interview or early in your
25 relationship with Gary Magness and Kim Magness and the

1 entities and the estates, when was Stanford first discussed?

2 And when I say Stanford, I mean broadly either Stanford
3 International Bank, Stanford Group Company, Allen Stanford,
4 any of that kind of big umbrella of the Stanford organization.

5 A. It was never discussed, in my presence anyway, when Kim
6 was alive, and Kim died in 2003. And before Kim's death I
7 probably spent -- you know, if I was -- if I -- I was probably
8 spending 1500 a year just on the Magness representation in
9 those years, and I would tell you probably 75 percent of those
10 hours were with Kim.

11 Q. Okay.

12 A. Okay? It was only at Kim's death that I started really
13 working closely with Gary. And the reason for that was that
14 -- that Kim was -- was a board member of TCI, and so the stock
15 of Liberty and TCI was really kind of in his sphere of
16 influence, and Gary was in charge of the ranches.

17 Q. Okay.

18 A. And my -- my task was, you know, over here, which was the
19 stock and watch that. I -- I didn't know anything about the
20 ranches really.

21 Q. Was -- is -- was Kim older than Gary, or vice versa?

22 A. By a year or two.

23 Q. Okay?

24 A. Kim was a year or two older.

25 So on Stanford, when Kim died, you know, now we've really

1 got a lot going on, because we're right in the middle of the
2 estate of Bob in the heat of an estate tax examination. There
3 was a lot of debt in the estate at the time.

4 And I didn't hear of Stanford -- as best I recall, I
5 never heard of Stanford until the private trust company was
6 formed. That was a -- an investment that Gary did with Tom,
7 and would have done it with Tonya's knowledge. I only became
8 aware of it when we formed the private trust company and I
9 became an investment committee member, and we were going to
10 review all of the investments of the trust to determine, you
11 know, what assets should be retained. And that's what a
12 trustee does on an annual basis is it reviews your portfolio
13 and makes decisions to retain or dispose. And so that's the
14 first that I recall I became aware of the Stanford CD.

15 Q. And so when you became aware of the Stanford CD, as scope
16 of the trustee you don't decide whether to retain or dispose
17 of assets.

18 A. Right.

19 Q. And so what -- what questions did you ask about the
20 Stanford CD when you first heard about it?

21 A. The questions that -- that I raised concerned the
22 transparency of the investment. One of my family offices
23 that's larger than the Magness had counseled me for years --
24 they never invested in hedge funds. And I wondered why,
25 because back then hedge funds were kind of somewhat of the

1 rage. And the answer was lack of transparency. So I kind of
2 had a criterion of what is the transparency of this
3 investment.

4 The second thing that I observed was that I thought it
5 was a disproportionately large investment given the holdings.

6 Q. What do you -- what do you mean by
7 that--disproportionately large investment given the holdings?
8 Whose holdings?

9 A. Well, I was concerned with the trust.

10 Q. Okay.

11 A. I mean, that was my responsibility. And I was being
12 becoming a fiduciary for the trust. And I took that job very
13 serious. I mean, I've been involved in unforeseen charges
14 against trustees years later when you think everything's
15 copacetic and somewhere along the line, let's say, there's a
16 divorce, and one of the kids brings an action against the
17 trustees who now include me, or as director of the private
18 trust company, for an imprudent investment. So I took it very
19 seriously.

20 Q. So you had an incentive to ask a lot of questions about
21 the Stanford International Bank CD.

22 A. I had a lot of incentive to ask a lot of questions about
23 it.

24 Q. And you did ask a lot of questions about it?

25 A. I did ask a lot of questions about it.

1 Q. So you mentioned transparency, the disproportionately
2 large investment given the trust's holdings.

3 A. Right.

4 Q. What other questions did you ask?

5 A. I didn't necessarily ask -- I mean, Chuck Wilk was doing
6 a lot of the labor on this.

7 Q. On what?

8 A. On the Stanford investment.

9 Q. What aspects of the Stanford investments?

10 A. I think his reservations were registered at the meetings.

11 Q. So Chuck Wilk had reservations about the Stanford
12 International Bank CD?

13 A. Certainly what lack of transparency. We had no idea what
14 this was.

15 Q. So Chuck Wilk had reservations about the transparency of
16 the --

17 A. About the lack of information at that point in time about
18 what it was, and he wanted to drill down into it.

19 Q. Okay. So at that point when -- right after the Mango
20 Five committee is formed or the Mango Five entity is formed --

21 A. Right.

22 Q. -- Chuck Wilk has reservations about the SIB CD.

23 A. Oh, I don't know what the timing of. I mean, right
24 after -- I don't know. But I do know in meetings we -- we --
25 we looked at the Stanford investments at every meeting.

1 Q. What other -- so you had concerns about the transparency?

2 A. Uh-huh.

3 Q. Did you also have concerns about the transparency?

4 A. Oh, yeah. I had concerns about the transparency, and I
5 had concerns about the magnitude of the investment.

6 Q. And we're talking about the investment being the SIB CD.

7 A. Right.

8 Q. So the magnitude, the transparency. What other
9 reservations or concerns did you have about the SIB CD?

10 A. Tom Espy.

11 Q. What else?

12 A. That was it.

13 Q. So when you first became aware of the SIB CD, you had
14 three issues--transparency, the magnitude of the investment,
15 and Tom Espy.

16 A. Right.

17 Q. What about Chuck Wilk? What reservations or concerns did
18 he express? You mentioned transparency. What else?

19 A. Beyond that, I -- I can't recall what his reservations
20 are, and I don't want to, you know, speak for him on that.

21 Q. But you know that one of his reservations was the
22 transparency of the SIB CD.

23 A. I may be imposing a word on him --

24 Q. Sure.

25 A. -- but I think it was trying to get our arms around what

1 this thing was.

2 Q. Because the information you had available at that time
3 was inadequate?

4 A. Well, the only information we had was the CD.

5 Q. What about Ms. Dokken?

6 MR. SADLER: This still has a ways to go, Your
7 Honor.

8 THE COURT: Okay.

9 MR. SADLER: So it might be a good time to break.

10 THE COURT: That sounds like a good time.

11 So don't come down Monday. We'll be closed. As far as
12 I'm concerned, though, you're still on jury duty Monday, so
13 take from that whatever you want to.

14 This is unrelated to the case, but I just feel compelled
15 to say this. Go Cowboys. I'll be watching.

16 So have a very pleasant long weekend. Come back
17 refreshed.

18 We're getting closer to the end. I think -- checking
19 with the lawyers, I think we're still pretty much on schedule
20 to get the case to you Wednesday.

21 So, as I say, have a great weekend. We'll see you
22 Tuesday at 9:00.

23 (Whereupon, the jury left the courtroom.)

24 THE COURT: Do you-all have the Receiver's share of
25 Espy handy?

1 MR. SADLER: I think I do. If Your Honor will give
2 me just a moment.

3 MR. SADLER: I apologize. I had it in email, Your
4 Honor.

5 MR. PETRIE: Your Honor, we have -- looking at total
6 both days, we had 143 for the Magness parties, 67 for the
7 Receiver.

8 MR. SADLER: And that's exactly what we had.

9 THE COURT: Minus 67 and plus 67.

10 MR. SADLER: 67 minutes for the Receiver, 143
11 minutes for the Magness Defendants.

12 THE COURT: Okay.

13 MR. SADLER: We have one exhibit also we have to
14 offer.

15 THE COURT: Go ahead.

16 MR. SADLER: Plaintiff's 470. It was one of the
17 documents discussed during Mr. Janvey's testimony, and it
18 looks like it just never got on the stip, so we offer
19 Plaintiff's 470. It's the rate thing.

20 MR. PETRIE: No objection to the rate chart. Thank
21 you, Your Honor.

22 THE COURT: It's admitted.

23 My timing on the depositions may be a little bit different than
24 yours, because to the extent there is slippage, I'm charging
25 that against the party calling the witness by deposition, and I'm

1 just subtracting the share of the other party from whatever
2 the time was actually on the clock according to my clock. It
3 should be pretty consistent, but if there are technical issues
4 and you can't get it to run for a couple of minutes, that's
5 your problem, not mine. I'm going by the clock as opposed to
6 the numbers you-all have agreed to, except I'm subtracting out
7 the amount you say is the opposing party's.

8 I've looked at your numbers and compared them to my
9 numbers, and I think there are a couple of potential issues.
10 One is that, as I told you, I do this like a chess clock, and
11 when one side says pass the witness, their time stops and the
12 other time starts. So I was -- it's not when the lawyer gets
13 to the podium and asks the first question. It's when the side
14 says pass the witness. So I was seeing probably on half of
15 the blocks you-all were running one minute short relative to
16 mine.

17 MR. SADLER: I see. I see.

18 THE COURT: And, you know, over the course of the
19 day that may add up to six or seven minutes.

20 The other thing where I found the only significant
21 difference was on Bell direct. And I think I know what the
22 issue is. Bell had 50 minutes before lunch and 7 minutes
23 after lunch, and you guys show the direct as 49, and I think
24 what happened is you didn't include the 7 minutes after lunch.
25 Because your 49 is pretty consistent with my 50 before lunch,

1 but in the aggregate you're nine minutes short.

2 MR. SADLER: We had -- for Bell we had 49
3 Defendants' direct, 53 Plaintiff cross, 6 minutes redirect.

4 THE COURT: Yeah. And what I'm telling you, what I
5 have for Bell direct is 50 minutes before lunch, which matches
6 up pretty well with your 49 --

7 MR. SADLER: I see.

8 THE COURT: -- and 7 minutes after lunch, which I
9 think you-all just forgot.

10 MR. SADLER: Oh, okay.

11 THE COURT: So when you add all those up, there's a
12 16-minute difference between my tally and your tally.

13 MR. SADLER: If I may ask, what does Your Honor have
14 the total through the end of the day yesterday?

15 THE COURT: Total total?

16 MR. SADLER: Well, for each side, obviously.

17 THE COURT: I think I mentioned this. I show
18 Magness at 757 and Receiver at 441, although --

19 MR. SADLER: Those are minutes? I apologize.

20 THE COURT: Minutes.

21 MR. SADLER: 757 and then 441.

22 THE COURT: Yep. The 757 may be a little bit high,
23 because I haven't deducted the Espy time for the Receiver.

24 MR. SADLER: On that last little bit?

25 THE COURT: On that last little bit.

1 MR. SADLER: I see.

2 THE COURT: But it will come off on today's total.

3 MR. SADLER: Understood.

4 THE COURT: In other words, some of the 67 minutes
5 for the Receiver may well have been in the half hour at the
6 end of the day Thursday, but I don't know how to allocate the
7 67 between Thursday and Friday, so I'm just taking it all off
8 on Friday, but the net bottom line should be the same.

9 MR. SADLER: And I apologize, Your Honor. 757
10 minutes for the Defendants, 441 minutes for the Receiver?

11 THE COURT: Correct. And as I say, you-all are
12 welcome to look at my time sheet whenever you want.

13 And I'll be happy to return your time sheet to you.

14 Anything else we need to take up today?

15 MR. SADLER: No, Your Honor.

16 THE COURT: Okay. Enjoy the weekend, and we'll see
17 you Tuesday at 9:00.

18 MR. SADLER: Yes, sir. And we anticipate a formal
19 charge conference sometime Tuesday afternoon? Was that the
20 timing?

21 THE COURT: Yeah. Are you going to take up all day
22 Tuesday?

23 MR. SADLER: So we have about an hour and 40-ish
24 minutes of Mr. Sutton, and then we have the direct and, of
25 course, the cross of Van Tassel, and then that's all the

1 Receiver has.

2 THE COURT: Are the Magness folks contemplating any
3 rebuttal.

4 MR. PETRIE: Not at present, but they have a fair
5 piece to go yet.

6 THE COURT: Understood.

7 MR. SADLER: I certainly think the evidence will end
8 by the afternoon.

9 THE COURT: Yeah, that's what it sound like. And I
10 would anticipate as soon as the evidence ends that we'll have
11 an informal charge off the record, and then when we're done
12 with that we'll go back on the record and do that and be ready
13 to argue first thing Wednesday.

14 MR. SADLER: Understood.

15 THE COURT: Anything else?

16 MR. SADLER: Not from the Receiver.

17 MR. PETRIE: No, sir. Thank you.

18 THE COURT: Have a good weekend.

19 MR. SADLER: Thank you.

20 MR. PETRIE: Thank you, Your Honor.

21 (The proceedings were concluded at 5:07 p.m.)
22
23
24
25

1 I HEREBY CERTIFY THAT THE FOREGOING IS A
2 CORRECT TRANSCRIPT FROM THE RECORD OF
3 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.
4 I FURTHER CERTIFY THAT THE TRANSCRIPT FEES
5 FORMAT COMPLY WITH THOSE PRESCRIBED BY THE
6 COURT AND THE JUDICIAL CONFERENCE OF THE
7 UNITED STATES.

8
9 S/Shawn McRoberts 01/14/2017

10 _____DATE_____
11 SHAWN McROBERTS, RMR, CRR
12 FEDERAL OFFICIAL COURT REPORTER
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APPENDIX G

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
 DALLAS DIVISION

3 RALPH S. JANVEY, IN HIS (CAUSE NO. 3:15-CV-401-N
4 CAPACITY AS COURT-APPOINTED)
5 RECEIVER FOR THE STANFORD (
6 INTERNATIONAL BANK, LTD.,)
7 et al., (
8 Plaintiff,)
9 (
10 vs.)
11 (
12 GMAG LLC, MAGNESS SECURITIES)
13 LLC, GARY D. MAGNESS, and (
14 MANGO FIVE FAMILY, INC., IN)
15 ITS CAPACITY AS TRUSTEE FOR (
16 THE GARY D. MAGNESS IRREVOCABLE) DALLAS, TEXAS
17 TRUST, (
18 Defendants. (JANUARY 17, 2017
19 (9:00 A.M.

20 VOLUME 6

21 TRIAL ON THE MERITS
22 BEFORE THE HONORABLE DAVID C. GODBEY
23 UNITED STATES DISTRICT JUDGE
24 and a jury

25 SHAWN M. McROBERTS, RMR, CRR
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1 P R O C E E D I N G S

2 JANUARY 17, 2017

3 THE COURT: Good morning. I understand you-all
4 think you have something you want to talk about?

5 MR. SADLER: Just first, Your Honor, we're -- we
6 need another moment to solve a computer communicating with the
7 projector problem, but we've almost got that solved.

8 The second is a scheduling question or issue. We've got
9 about an hour and 55 minutes of this videotaped deposition,
10 and then we have Ms. Van Tassel, and then of course the
11 Receiver will rest at that point. We have cut back
12 substantially what we plan to do with Ms. Van Tassel, and we
13 anticipate that even with their cross, we'll probably be
14 through with the evidence right around 3:00.

15 And so the question is, would Your Honor like to get this
16 case to the jury today. We'd be happy to do it.

17 THE COURT: I don't think so --

18 MR. SADLER: All right, sir.

19 THE COURT: -- unless -- unless everybody thinks the
20 charge is almost perfect like it is.

21 MR. SADLER: We have a couple of minor questions
22 about it, but, you know, we're only talking about one question
23 so I'm not sure how long that would necessarily take us.

24 We've got some comments these aren't our formal -- but if
25 Your Honor would care to review them, I'm happy to hand them

1 up.

2 THE COURT: Sure.

3 MR. SADLER: A copy for counsel.

4 THE COURT: You know what I think is probably
5 better, even if the charge is practically perfect, is to send
6 the jury home and argue first thing in the morning. Because
7 when you argue at 3:00, they hear the argument and go home and
8 then come back, and then they may have forgotten all of what
9 you wanted to say.

10 MR. SADLER: I just wanted to make Your Honor aware
11 of that so we'd have the option but certainly understand.

12 THE COURT: You guys get a vote, too.

13 MR. PETRIE: I vote with you.

14 THE COURT: Okay. All right. Are we ready to go?

15 MR. PETRIE: It's two matters that are interrelated,
16 and they relate to Mr. Sutton, what we're going to be viewing
17 this morning.

18 We had spoken some last week about proposed instructions.
19 You gave us your initial inclination as to how you were
20 inclined to proceed, but I don't think we ever got your final
21 take on how you wanted to deal with that.

22 THE COURT: Yes. What I propose to do is read the
23 first four sentences of the Receiver's proposed instruction,
24 which I think tracks very closely with your proposed
25 instruction.

1 MR. PETRIE: So -- okay. I understand, Your Honor.

2 The second question then related to that is actually how
3 we then feather in the errata, because we did some further
4 research on this, and this Court in the Riley versus TXU case,
5 and I have these cases if you'd like me to hand them up,
6 followed the Northern District of Illinois which essentially
7 directs you have an in-line process where you have the errata
8 inserted with the question.

9 Obviously, it becomes a little more of a mechanical
10 challenge when we're talking about a videotape which is not --
11 does not have accompanying videotaped errata. The errata are
12 done in the old school way, you know, a sheet attached to the
13 back of the deposition.

14 THE COURT: If you think you can stop and do it in
15 line, that's fine with me. I think that's likely to be just
16 physically challenging.

17 MR. PETRIE: Well, I mean, I think it's really a
18 question of then someone will have to then read the corrected
19 statement into the -- into the record at each of those breaks.
20 I mean, we could -- we could do that. It would require me to
21 coordinate some with the Receiver's technical side, in other
22 words, to get those -- those breaks in place, but we could do
23 that.

24 THE COURT: I think it's probably better to do the
25 corrections all at the end--just read the question, the

1 original answer, and the corrected answer.

2 MR. PETRIE: And I guess the -- the issue with that,
3 Your Honor, is the repetition.

4 THE COURT: I think it's unavoidable.

5 MR. PETRIE: Okay.

6 THE COURT: What else?

7 MR. PETRIE: That was it for me. Thank you.

8 THE COURT: All right. Let's bring them in.

9 (Whereupon, the jury entered the courtroom.)

10 THE COURT: Be seated.

11 Good morning.

12 SEVERAL JURORS: Good morning.

13 THE COURT: How's everyone doing?

14 SEVERAL JURORS: Fine.

15 THE COURT: Good. Our poor Cowboys. I think the
16 less said about that, the better.

17 I managed to catch cold over the weekend, so I will try
18 to not cough into the microphone or anything like that. But I
19 apologize if my voice is hard to hear. If you're having
20 trouble hearing me, please let me know and I'll do best to
21 speak up. Fortunately, I don't have much of a speaking role
22 today. This is about it.

23 I visited with the lawyers some this morning, and they
24 tell me they're ahead of schedule. So it sounds like probably
25 we'll finish with the evidence sometime this afternoon. We

1 may send you home a little bit early today while we do some
2 paperwork, and then we'll be ready to start, I believe,
3 tomorrow morning first thing with the closing arguments.

4 So I know you-all are curious about that, and I try to
5 share with you the most current information I have, and that's
6 it. And I think that's enough from me.

7 Are we ready to proceed?

8 MR. SADLER: Yes, Your Honor. We'll continue with
9 the videotaped deposition of Mr. Ray Sutton at this point.

10 THE COURT: Very good.

11 RAYMOND L. SUTTON, JR., BY VIDEOTAPE DEPOSITION,

12 Q. What about Ms. Dokken? She would attend at times.
13 Right?

14 A. Right.

15 Q. Did she have any reservations or concerns about the SIB
16 CD?

17 A. Well, I know for a fact that she did purchase a CD
18 herself, so --

19 Q. Right. But did she ever express any reserves --
20 reservations or concerns about the SIB CD?

21 A. In the early years?

22 Q. Yes. Let's start with that.

23 A. No. I mean, she -- she had an investment in there. And
24 for her, it was a sizable investment.

25 Q. What about in later years? Did she express any concerns

1 about the SIB CD?

2 A. The only thing that I -- I know she got out of the
3 investment at some point. I don't know when she got out of
4 the investment, and I don't know why she got out of the
5 investment. But the only -- the only thing I recall her
6 saying was that -- that Tom was making a lot of money on the
7 investments.

8 Q. Was that -- and we'll go through each of these concerns,
9 but is that part of your Tom Espy concern criteria, or is
10 that --

11 A. No.

12 Q. -- different?

13 A. That's different.

14 Q. Did the amount that Tom Espy was making also kind of
15 cause a concern, a reservation, from your perspective?

16 A. I didn't have any idea what Tom was making until I heard
17 what he was making, I don't know, in 2009 or 2010. I -- I
18 never knew.

19 Q. What was your reaction to Ms. Dokken saying, Tom's making
20 a lot of money off of this?

21 A. It wasn't surprising to me.

22 Q. Why's that?

23 A. Tom promoted a lot of investments to Gary over the years.
24 GMS@Lightspeed was the first one I became aware of, and Tom
25 was very active, involved in that. He had -- you know, Steve

1 is running it now, but Tom was pretty much running it at the
2 time. Introduced the investment to Gary. It was a real
3 estate deal, a building and whatever, and he got a commission.

4 Q. Okay. Let's go to -- well, so we talked a lot about
5 initial reservation and concerns. Right?

6 A. Uh-huh, right.

7 Q. What about over the course of time? Between when you
8 first heard about SIB CDs and the date that the Receiver was
9 appointed, what other reservations or concerns arose in your
10 mind?

11 A. The only one that I recall clearly was a board meeting
12 that we had in Las Vegas. You've seen the minutes. It's a
13 March board meeting, and I don't recall the year. It was a
14 meeting that Wilk was present and Espy was present. I believe
15 Espy was present. He was on the phone if he wasn't present,
16 but I think he was present. And we actually had a call with
17 Juan Rodriguez. There may have been others on the phone, but
18 he was the principal one that did the talking.

19 And the purpose of the call was to talk to Rodriguez
20 directly, and Wilk and I did most of the questions.

21 Q. Wilk and yourself?

22 A. Right.

23 And we wanted to know what this explanation was for this
24 investment. You know, what -- was this a traditional U.S.
25 bank that was taking in deposits and then, you know, paying

1 the depositor and then taking the money and lending it? Was
2 that what was going on?

3 And the explanation that we got was that was not what was
4 going on and that the reason that this was located offshore
5 was that it could act more like a -- an old English merchant
6 bank, whatever that is.

7 Q. Is that what he said, Juan Rodriguez?

8 A. Yeah, a merchant bank.

9 Q. Old English merchant bank.

10 A. Right. And I didn't understand what that meant. But
11 what was described was that this wasn't a traditional deposit
12 and then the bank would lend and make two or three points on
13 the arbitrage, but that -- by being offshore, that they could
14 do things that they could not have done onshore. And what he
15 then described was making investments in a whole myriad,
16 commodities, real estate.

17 Q. He being Rodriguez?

18 A. Rodriguez.

19 Q. Go ahead. I'm sorry. Investing in --

20 A. Investing in nontraditional assets. I don't know if that
21 was the exact description, but as he went down this laundry
22 list. So when we got off the phone, Chuck kind of talked a
23 little bit about what we had just heard, and what I formulated
24 in my mind, and I'm sure I articulated it at the meeting, was
25 that I thought that Gary had bought a preferred instrument,

1 like -- like preferred stock, that was going to pay a capped
2 but attractive rate of return in what was an offshore hedge
3 fund.

4 Q. And what did you say about that?

5 A. I said that if you analyze -- not verbatim, but my
6 feeling was that if you analyze it as an investment in a hedge
7 fund that had underlying assets, as any hedge fund has, as
8 Gary had United States hedge funds that Tom had sold him, that
9 if you looked at that, that was probably overweighted in the
10 overall portfolio for where hedge funds should be.

11 Q. Because it was riskier?

12 A. I just -- I just tagged the name hedge fund. We
13 were -- you know, we were -- we were trying -- Gary has great
14 faith in -- in the TCI -- TCI stock was gone, but the
15 Liberty-related stocks, he had a great concentration in that
16 and a great confidence that over time those assets will
17 outperform everything else.

18 So that was some of us that felt, well, if you want to
19 ride the horse on that and not diversify out, then there ought
20 to be a significant part of your portfolio that was very
21 conservative, whether it was in T-bills or cash or under your
22 mattress. But that's my conservative nature.

23 Q. And so hedge funds are not conservative investments?

24 A. In my view, if -- if -- if -- when I looked at the
25 portfolio if Gary was going to ride the fast horse, which is

1 what he always called Liberty, you're going to ride the fast
2 horse, then you ought to have a mule somewhere in the
3 portfolio, and I just didn't see where -- and I remember
4 premising it on, hey, this could be -- this could be a great
5 investment. I certainly never had reason to believe it wasn't
6 an investment. Okay? But given the decision was made not to
7 diversify on an extremely concentrated portfolio, it was -- it
8 was my view, anyway, and it was Chuck Wilk's view, that there
9 ought to be some part of the portfolio that was just
10 absolutely as safe as it could be.

11 Q. And so this -- after this March, whenever it was, meeting
12 in Las Vegas, and we'll -- help me identify it when we go
13 through the minutes later, your view was that the SIB CD was
14 not as safe of an investment as what Gary needed.

15 A. As what Gary needed. That's correct.

16 Q. And the safe -- once you heard from Mr. Rodriguez what
17 the purported assets were in which the bank invested --

18 A. Uh-huh.

19 Q. -- how did that compare with what you had been told
20 before and what your understanding was before about the SIB CD
21 portfolio?

22 A. I never had been told anything that -- all I knew was it
23 was a CD, it was paying a high rate of interest. The
24 conclusion I had after my call with Rodriguez was, well, this
25 kind of looks like a Warren Buffet, you know, preferred

1 investment where he's getting a capped return. I just thought
2 Gary was a preferred equity investor.

3 Q. What is a preferred equity investor?

4 A. It's -- in private equity circles it would be referred to
5 as mezzanine debt. When private equity gets put together,
6 there's a -- sort of a middle ground of mezzanine debt that
7 provides financing, and they get a pretty high rate of
8 interest, and oftentimes they get a warrant to convert into
9 the equity, which is at the bottom of the -- of the ladder.

10 You'll recall when Warren Buffet financed Goldman Sachs,
11 for example, that's what he got. He got a high coupon rate,
12 and then he got a warrant to convert. And he did that with a
13 number of companies that got stressed in those financial
14 times.

15 That's what I thought Gary had, was sort of the
16 equivalent of mezzanine debt.

17 Q. Did this phone call alleviate the issues that you had
18 with respect to SIB CDs, or did it just cause you to ask more
19 questions?

20 A. It -- it in my mind placed the investment in a category
21 of a portfolio wheel. In other words, if you take an
22 investment portfolio and you've got your equities, you've got
23 your fixed income, you've got your private equity, you've got
24 your real estate sliver, and in my mind what it did was it was
25 definitely an investment. It was an investment in a hedge

1 fund. It was not an investment that up to that conversation I
2 had expected.

3 I wasn't questioning the underlying assets or the
4 underlying investments. I had no knowledge of that. I don't
5 know that anybody had ever seen what the alleged underlying
6 investments were.

7 I just come back to what I said earlier. I -- I -- once
8 I understood that this was not a CD going to a bank that's
9 regulated that then got lent out to borrowers at a higher
10 rate, this was a hedge fund. And I just felt that make
11 your -- make your investment decision based on full knowledge
12 that this is not a CD.

13 Q. And so Stanford International Bank described this
14 investment instrument as a certificate of deposit. Right?

15 A. Right.

16 Q. And your view was, this is not a certificate of deposit.
17 Right?

18 A. Right.

19 Q. And I think you testified earlier you had every incentive
20 to ask questions about this SIB CD?

21 A. Yep.

22 Q. And so you asked what it was?

23 A. Right.

24 Q. Right? And you got told it was a CD?

25 A. Right.

1 Q. And that Gary was happy with it?

2 A. Right.

3 Q. And you asked no further questions at that point?

4 A. I don't -- I mean, you know, this is probably 2006 or
5 2007. I can't remember what questions. But it did
6 become -- I did have a discussion with Gary, and probably the
7 others, that, look, I mean, we were going along with Liberty
8 and we were very concentrated in Liberty, and Gary made it
9 very clear he wasn't going to sell Liberty.

10 And at that point in time, I started -- and this was
11 early on in the trust. I said, look, Gary, you're going to
12 make the investment decisions. There's no reason to call this
13 a committee. Okay? So why don't you make them, and I still
14 want to have advisors because I want to show for Nevada
15 purposes that we were meeting with a purpose in Nevada. That
16 was important for our situs or our location of the trust
17 company. So we amended the bylaws relatively early on to
18 dispense with the investment committee and just create
19 advisors.

20 Q. So let's start with the disproportionately large
21 investment given the trust's holdings.

22 A. Right.

23 Q. You had that feeling day one of your involvement with
24 Mango Five. Right?

25 A. Early on.

1 Q. Yeah. So it had an exposure to the SIB CD, SIB CD that
2 was larger to expect from a trust perspective?

3 A. Yes.

4 Q. Explain that to me.

5 A. I just thought that if you were feeling -- and at that
6 time I still believed it was fixed income, but I just thought
7 to have all of your fixed income allocation tied up in one
8 investment was a risk.

9 Q. From a diversification perspective?

10 A. Right. Right.

11 Q. So even before you understood that it was actually kind
12 of like a hedge fund, you thought that the trust was too
13 concentrated in Liberty and it was too concentrated in
14 Stanford.

15 A. Yes.

16 Q. Anything else about this disproportionately large that I
17 haven't heard about today?

18 A. No.

19 Q. Did that change over time, your -- your concern and
20 reservation on that --

21 A. No.

22 Q. -- perspective?

23 What about after that March meeting?

24 A. The only thing that changed was that I did not see that
25 as fixed income.

1 Q. Still a lack of diversification.

2 A. Right.

3 Q. Still proportionately too large.

4 A. Right.

5 Q. But now riskier.

6 A. Right. In my mind.

7 Q. And actually riskier. Right?

8 A. Right.

9 Q. Transparency. Tell me about why that was a concern with
10 respect to the SIB CD.

11 A. Transparency was a concern because from the U.S.
12 standpoint, if it had been a U.S. certificate of deposit, you
13 would know that it was -- it was a contract between the
14 depositor, and then the depositor understood that the bank was
15 going to go out and lend, and that there would be a spread.
16 Okay?

17 We didn't know what Stanford or who Stanford was lending
18 to or whatever, but, I mean, that's as far as my knowledge was
19 on this CD when I first saw it on the balance sheet.

20 Q. So you saw a certificate of deposit on the balance sheet?

21 A. Right.

22 Q. And you just assumed that it was like other certificates
23 of deposit in that the bank makes money off of loans to its
24 customers or others and then makes money, keeps a spread, and
25 pays back its certificate of depositors. Right?

1 A. I think that's what I assumed --

2 Q. Yeah.

3 A. -- based on my understanding of --

4 Q. And so then you wanted to see proof of that?

5 A. No.

6 Q. No? Okay. So what's this transparency issue then?

7 A. I just -- I just registered -- I mean, I just kind of
8 thought that we would see more. But, no, I didn't start
9 asking for the Stanford presentations that Gary -- I mean,
10 Gary had made this decision years earlier.

11 Q. But you still have an obligation as a member of this
12 board to view --

13 A. Monitor --

14 Q. -- monitor --

15 A. Monitor the trust's investments.

16 Q. -- and look into the trust's investments?

17 A. Right.

18 Q. What did SIB being offshore as opposed to a domestic
19 company matter to you?

20 A. I don't have an opinion on that.

21 Q. I'm not asking for your opinion, though. At the time you
22 heard about this --

23 A. Uh-huh.

24 Q. -- and you knew it was a foreign entity --

25 A. Right.

1 Q. -- issuing certificates of deposit and didn't have the
2 transparency that you would have wanted. Right?

3 A. Right.

4 Q. What about it being in Antigua mattered from your
5 perspective when evaluating this SIB CD?

6 A. It didn't raise any more red flags than being located in
7 I guess Bermuda or Guernsey or Jersey or Guernsey or Jersey,
8 you know, traditional banking havens. I didn't know anything
9 about it.

10 Q. Right?

11 A. But in my world, having bank havens in places like
12 Antigua didn't strike me as being a red flag.

13 Q. But offshore banks -- I mean, tell me if you agree or
14 not: Offshore banks are typically riskier than domestic U.S.
15 banks. Right?

16 A. Not -- I don't have any reason to believe that one way or
17 another.

18 Q. Okay.

19 A. I say that because I've dealt with banks in Guernsey and
20 Jersey and Isle of Man over the years, and I have -- they're
21 very strong banks that deal there.

22 Q. After you first became aware of SIB CDs and asked your
23 questions and got told Gary liked it, did you continue to ask
24 questions about it at any point? It being the SIB CD.

25 A. I can't say yes or no. I mean, it was -- it was on the

1 agenda for every one of our investment committee meetings.

2 Q. You mentioned the other factor of concerns, reservations,
3 was Tom Espy himself. Tell me about that. Why was that a
4 concern or reservation in your mind?

5 A. I -- I didn't put Tom in the category of a sophisticated
6 investment advisor when he matched up with other investment
7 advisors that I work with, deal with, sit at family office
8 tables with.

9 Q. How so?

10 A. He seemed to be lacking the perspective and the judgment
11 that I was familiar with from other advisors.

12 Q. So he lacked perspective and judgment as compared to
13 other investment advisors that you dealt with?

14 A. Right.

15 Q. What else?

16 A. Well, that was -- I mean, that was enough.

17 Q. Okay. Let's talk about perspective. What perspective
18 did he lack?

19 A. To put a comparison, I thought he lacked Chuck Wilk's
20 perspective, for example.

21 Q. Go ahead.

22 A. And, I mean, you know, we had a lot of debt in the
23 Magness entities for many years. It was a tension of whether
24 we were going to pay down the debt if we diversified or if we
25 diversified, we always had to pay taxes because it was such a

1 low basis in all of the stock. So that was always a deterrent
2 about just going out and immediately liquidating.

3 But there was always this debate as to, you know, should
4 we -- should we sell stock to pay down debt or should we sell
5 stock to raise proceeds to make investments in other areas.
6 Chuck was always fairly strong in saying, Let's pay down the
7 debt.

8 Q. And you thought that was a good idea?

9 A. I thought that was a good idea.

10 Q. What did Gary think?

11 A. I -- he would start -- I mean, we -- you know, from 2005
12 until the last couple of years, he was -- he was buying
13 into -- and then more recently, he would tell you he'd like to
14 be debt free. But Chuck was an early advocate of selling
15 stock, using proceeds to pay debt. Tom was generally on the
16 side of selling stock to buy other investments, and those
17 investments usually were hedge funds, you know, Quanteen (ph)
18 and some of the others that were on the balance sheet.

19 Q. What else about Chuck Wilk's perspective did Espy lack?

20 A. Independence, in the sense that Tom always got a
21 commission for everything that he did. Chuck was just paid on
22 a retainer.

23 Q. What else did Tom Espy lack that Chuck Wilk had from a
24 perspective point of view?

25 A. When comparing him to Chuck, I don't -- I don't -- I

1 don't know much else.

2 Q. So it's -- let's talk about independence you said Tom
3 Espy always got a commission for everything he did. Right?

4 A. Right.

5 Q. And that included anything relating to Stanford?

6 A. I didn't know at that time what he was getting from
7 Stanford. I just assumed he was getting paid from Stanford.

8 But, you know, if he would sell stock, for example, Gary
9 would sell stock from time to time, including in the 2002-2003
10 time frame, he would sell stock, and he would -- I mean, I
11 don't -- there's brokers' parlance for what you get when you
12 sell stock, how many pennies a share or something like that.
13 He'd always get that.

14 And then I was sure that -- well, I knew that on that
15 @Lightspeed, that he had gotten a commission on that. And
16 then, you know, the hedge funds that he recommended.

17 Q. Did you know that he got a commission on SIB CDs?

18 A. I -- I assumed he did. I didn't know until much later.

19 Q. How much did you assume he was getting paid on commission
20 for his SIB CDs?

21 A. I -- I was sure it was probably in the six figures.

22 Q. Per year?

23 A. I -- no. I thought it was a one-time deal.

24 Q. That was just an assumption you had?

25 A. Yeah.

1 Q. Okay.

2 A. Yeah.

3 Q. And when did you find out otherwise?

4 A. One time they told me.

5 Q. This is before the Receiver was appointed?

6 A. Again, I don't -- I don't recall when it was.

7 Q. Okay. And so you said just like other brokers, they get
8 pennies per share that they get. Is there anything wrong with
9 getting a penny a share or two pennies a share, whatever it
10 is, for selling stocks?

11 A. No.

12 Q. So what was it about that and Tom Espy that made you
13 question his independence?

14 A. It -- you know, it's -- it was just a fact. It was just
15 a fact that whatever Tom made a recommendation, he got
16 compensated other than on an hourly basis or other than on a
17 retainer basis like Chuck Wilk.

18 Q. So you just knew that --

19 A. Yeah.

20 Q. -- to some extent him getting compensated for pitching
21 these things --

22 A. Right.

23 Q. -- he's going to get paid for it --

24 A. Right.

25 Q. -- including the SIB CDs --

1 A. Well --

2 Q. -- you assumed?

3 A. -- I assumed he had been compensated when they were sold.

4 Q. Did -- did you ever raise any issues with Gary Magness or
5 anybody else in this Magness organization about the
6 perspective that Tom Espy lacked and the independence issues
7 that you perceived?

8 A. Well, I -- I know I talked to Chuck about it, and I know
9 I talked to Tonya about it.

10 Q. Did you talk to Gary about it?

11 A. I don't think I did.

12 Q. Why?

13 A. Because I wasn't really part of the inner circle.

14 Q. Who's part of the inner circle?

15 A. Tonya was the inner circle. Steve was inner circle. Tom
16 was inner circle for a good bit. Chuck was closer than me
17 because he dealt with the banking and the investment
18 decisions.

19 Q. What about Bob Armstrong? Where does he fit into all
20 this?

21 A. He is farther out than me.

22 Q. So you mentioned perspective, which we've talked about.
23 Is there anything about perspective that he lacked that we
24 haven't talked about already?

25 A. No.

1 Q. Now, what about judgment? You said that was the other
2 thing that he lacks as compared to other investment advisors.

3 A. I just -- I just didn't think that he had the background,
4 the credentials, the training that -- that I would expect, you
5 know, to be a significant investment advisor to, you know,
6 somebody that's on the Forbes 400.

7 Q. So what -- what about his background did you find
8 deficient?

9 A. I -- I couldn't -- in my mind, it was -- you know, when
10 you're -- I guess in my narrow world, it would be like a small
11 office general practitioner giving legal advice to Gary
12 Magness on sophisticated issues, and my bias is, I think you
13 need a larger firm to handle the array of issues that you're
14 going to be dealing with.

15 And so if I was to look at Tom versus, say, Wilmington or
16 Bessemer or any number of investment bank choices, even
17 Merrill Lynch, even though it's more on the retail side of it,
18 Ryan kind of brought more of a boutique team approach to it.
19 He represents some very high net worth individuals.

20 I just think when you look at the sort of security that
21 you get from -- you know, it's the reason general -- general
22 counsel want to hire firms like Baker Botts, BakerHostetler.
23 You know, if something goes wrong, you can say, at least I
24 hired a name firm.

25 I guess that was sort of my -- my view with Tom, was he

1 was handling a lot of money without really an institutional
2 sort of backbone to what he was doing.

3 Q. So that was your view with respect to him and the
4 brokerage firm he worked for, Stanford Group Company?

5 A. I -- I honestly didn't know anything about Stanford Group
6 Company.

7 Q. Did you just think that Tom Espy was an advisor on his
8 own?

9 A. I did for -- I -- I did. In the early years that I knew
10 him, I did think he was on his own. I didn't know -- well,
11 you know, I think he was with one or two places. I don't know
12 who they were.

13 Q. But at what point did you realize he was working with
14 Stanford Group Company?

15 A. I can't tell you. It would have been after the CDs, I
16 think.

17 Q. After what about the CDs?

18 A. After I learned that the CDs were owned by the trust and
19 by Gary and whatever.

20 Q. Okay. Did you know that Tom Espy actually had an office
21 at Magness Investment Group?

22 A. I did learn that at some point, yes.

23 Q. Did that impact your view of his independence or any of
24 the other deficiencies that we've talked about?

25 A. No, I don't think it impacted it.

1 Q. Was it at all indicative of him being in that inner
2 circle?

3 A. Well, yeah, his physical presence in the office, yeah. I
4 mean, I think that --

5 Q. At what point and why did it get decided the way we set
6 it up needs to change? Really, you need to be the only person
7 who's formally on the investment committee, Gary.

8 A. Well, I don't know what point. You can track it from,
9 you know, the meetings where we had the committee to the
10 meetings where we approved the change in the bylaws. It
11 hadn't been going on that many years or that -- that many
12 meetings, but it -- you know, it just became, you know, pretty
13 apparent to -- to me that Gary -- you know, buck stops there,
14 he was going to make the decision, and that -- that the more
15 realistic structure was going to let him make the investment
16 decisions.

17 Q. And the buck stopped there with Gary for Mango Five
18 purposes?

19 A. I think I'm understanding your question. You mean making
20 decisions with respect to the trust investments?

21 Q. Right, yeah. Uh-huh.

22 A. Right.

23 Q. What about with respect to GMAG?

24 A. Clearly.

25 Q. What about with respect to the Gary Magness Irrevocable

1 Trust?

2 A. Well, that -- that is trustee by Mango. So --

3 Q. So yes?

4 A. Yes.

5 Q. And then was he also the buck stops here decision guy
6 with Magness Securities?

7 A. Yes.

8 Q. And, as a member of the board, committee member of the
9 investment committee, advisor to the investment committee, and
10 member of the distribution committee --

11 A. Right.

12 Q. -- you were responsible for doing some amount of due
13 diligence on investments of the trust. Right?

14 A. You know, other than to review the -- the holdings of the
15 trust when the trust took over as the trustee, there wasn't
16 much to review. I mean, the assets were on the balance sheet.
17 Most of the assets on the balance sheet were Liberty-related
18 stocks.

19 Q. So what other assets were on the balance sheet when you
20 first started with Mango Five?

21 A. Probably the same that are on there today. You got
22 ranches, you got the homes. You got a few more homes now
23 today than you did back then. Stocks, the data center.

24 Q. So let's set Stanford off to the side, because that was
25 on the balance sheet, right --

1 A. Right.

2 Q. -- at that point? So for Liberty --

3 A. Uh-huh.

4 Q. -- what information did you ask for with respect to
5 Liberty holdings and all of its various iterations?

6 A. We didn't have to ask for the information. We had board
7 packets that detailed the holdings of every single issue of
8 stock, what the basis was, you know. If you sold the stock,
9 you needed to know what the basis was going to be, and
10 then it was kind of spreadsheeted so you could see what GMAG
11 owned, what Mag Securities owned, what GMIT owned.

12 Q. And did you have, you know, historical returns from those
13 Liberty investments somewhere in there?

14 A. Umm --

15 Q. I'm sorry, returns may be the wrong phrase. Did you-all
16 have historical value information about those holdings over
17 time?

18 A. Well, all of us knew that because we -- you know, we were
19 all involved in the estate of Bob Magness, and we filed the
20 estate tax return. So just from an intuitive sense, I mean,
21 yeah, you knew it was going the right direction.

22 Q. And it was publicly traded.

23 A. Right.

24 Q. Right? Did you have access to annual reports for Liberty
25 Media?

1 A. We didn't. Well, we had access to them --

2 Q. Uh-huh.

3 A. -- but Gary and -- and Tonya really followed Liberty, and
4 I think Espy, while he was involved, would track what, you
5 know, John Malone was doing. And -- I mean, I wasn't much
6 involved in tracking, you know, what spinoffs were going on.

7 Q. Sure.

8 A. There were a lot of that kind of stuff, tracking stocks.
9 And, I mean, Liberty is a very complex -- that's one of its,
10 you know, issues with analysts, is it's a very complex company
11 with a lot of transactions going on all the time. And
12 Gary -- that was something that Gary took a pretty keen
13 interest in following.

14 Q. But from virtue of your experience with the estate issues
15 and how that all worked out, I mean, you had a pretty good
16 sense of what the Liberty holdings were and what they were all
17 about. Right?

18 A. I mean, I knew what Liberty did versus what TCI did.

19 Q. Uh-huh.

20 A. I think TCI was the cable pipes, and Liberty was the
21 content, and then Liberty, you know, would be cut up. There
22 might have been -- well, there are several companies on the
23 balance sheets that were Liberty affiliates.

24 Q. And so that's -- that's the Liberty holdings.

25 A. Right.

1 Q. You also mentioned ranches?

2 A. Right.

3 Q. Right? What information did you have about the ranches?

4 A. We got a report every -- every meeting. Tonya would give
5 a report every meeting on -- at that time the ranch was
6 co-owned with Kim's two children, trusts for the two children.
7 So that was Magness Land Holdings, I think.

8 And the ranch was co-owned. So we'd get a report --
9 Tonya would get the report from the ranch manager. She'd show
10 us what the projected losses were going to be for the year.
11 There were always losses at the ranch.

12 Q. And you knew generally what operations they were doing at
13 the ranch?

14 A. I mean, raising cattle and showing them at the stock
15 show --

16 Q. Uh-huh.

17 A. -- was about all I knew.

18 Q. Okay.

19 A. I didn't really have much to do with the ranch. I've
20 only been to the ranch one time.

21 Q. Who would you say was responsible for due diligence
22 investigation with respect to SIB and its CDs?

23 A. I would have to say Tom.

24 Q. What about Chuck Wilk?

25 A. I think that Chuck -- I don't know at what point Chuck

1 knew about the Stanford investments.

2 Q. Did you ever receive any compensation for your role as a
3 board member --

4 A. No.

5 Q. -- or advisor?

6 A. No. I was just paid as my -- my legal hourly rate for
7 attending the meetings.

8 Q. Did you get paid for being a committee member?

9 A. No.

10 Q. And so you got your legal rate for attending the
11 meetings.

12 A. Right.

13 Q. But you were there as a board member?

14 A. Right.

15 Q. And you were there as an advisor?

16 A. Right.

17 Q. You were there as a committee member?

18 A. Right.

19 Q. You weren't there as an -- as an attorney necessarily.
20 You just were an attorney.

21 A. I -- I think that's right. You know, we all had kind of
22 our bailiwicks. Steve had the data center. Chuck, Tom, and
23 Gary pretty much had the investments. Tonya had the ranch,
24 and I was legal. So if legal stuff would come up --

25 Q. Uh-huh.

1 A. -- you know, then I would talk about the legal stuff.

2 Q. Okay. Did you trust Tom Espy?

3 A. In the sense that I think that he would intentionally
4 take money from Gary or steal from Gary, no, I never thought
5 that.

6 Q. But other than that, did you trust Tom Espy?

7 A. I mean, I can't say I distrusted Tom.

8 Q. You didn't absolutely trust Tom?

9 A. I wouldn't take investment advice from -- from Tom.

10 Q. Okay. So you wouldn't -- well, would you trust
11 investment advice from Tom Espy?

12 A. No.

13 Q. When you asked questions about the SIB CDs, did you find
14 that you received satisfactory information in response?

15 A. Well, I -- I didn't have a history of asking a lot of
16 questions about Espy. I mean, those were --

17 Q. About who? Did you say Espy?

18 A. About -- about the CDs. I mean, you know, by the time I
19 got aware of those CDs, I mean, they were done deals. Gary
20 had invested with them, he said he was sticking with the
21 investments. I obviously had some concerns about them. They
22 were kind of growing concerns.

23 I mean, they kind of -- and there was a lot of pressure
24 on the trust. I mean, there were -- there were -- there were
25 a lot of loans out at the time. And, you know, we weren't

1 seeing current interest being paid. I mean, there were --
2 Gary had elected the option to accrue interest, so the
3 interest would accrue on the interest. But it's almost like,
4 you know, being told, well, look, this is the way it is, I'm
5 not going to change my mind. So --

6 Q. You said that you had concerns and the concerns were kind
7 of growing over time. What caused those concerns to grow over
8 time for you?

9 A. Well, I think the pressure on the trust. I mean, it was
10 very -- you know, it was very stressful on the trust with some
11 of the debt that was on there. We were always near margin
12 calls. We had far too much debt coming after the close of the
13 estate of Bob Magness. I don't remember what the number is.
14 The balance sheets will clearly show what debt was there when
15 we closed the estate in 2005.

16 And then when -- when Liberty, which is a volatile stock,
17 I mean, it's -- you know, look, when -- when the estate was
18 settled, I don't know what -- what the estate was worth in
19 2005, but the estate tax return, that's a known starting
20 point.

21 And, I mean, Gary has been well rewarded for his
22 commitment to sticking with Liberty. For some of us who have
23 more conservative tastes, it was -- it was a ride that would
24 have probably driven me nuts. I mean, it goes up, and it goes
25 down. It goes down when the stock market flutters, and then

1 we get margin calls. You know, it was a very, very volatile,
2 high-risk stock, which you step back and, you know, he was
3 right. Things were a hit.

4 You know, it's run by John Malone, and Gary knows John
5 Malone from when his father was alive, and he rightly, I
6 think, surmised that there's nobody better to trust your
7 investments to than John Malone, and he's been right.

8 Q. Let's -- let's talk about the SIB CDs, though. Let's
9 shift from Liberty. You said you had growing concerns about
10 the SIB CDs. What was fueling those concerns?

11 A. You know, the -- the -- the illiquidity of the CDs, given
12 the times that I had seen that we were getting very close to
13 margin calls.

14 Q. What do you mean by illiquidity?

15 A. Well, what I mean is that I -- at some point I became
16 aware that -- that the other banks that were financing these
17 lines of credit wouldn't take the -- the CDs as collateral.

18 Q. When did you find that out?

19 A. Well, for sure I found that out in -- gosh, I don't know,
20 is it 2009 when -- in the fall of 2009 for sure.

21 Q. So just as a reference point, the Receiver was appointed
22 in February of 2009?

23 A. Okay. So that would have been the fall of 2008, because
24 the stock market had taken a significant drop in August,
25 September of that year. We were up against the wall with

1 margin calls. We were selling stock. And for sure we -- we
2 went to some of the banks -- not we. Tonya went to some of
3 the banks and -- and was told that the Stanford CD was not
4 collateralizable asset.

5 Q. When you got told that, that it was not usable as a
6 collateral to a loan, what -- what did you think?

7 A. Well, I was pretty much on the outside at that point in
8 time. When there were margin calls and handling the banks, we
9 weren't involved in that.

10 Q. Yeah, but what did you think when you got told, hey, none
11 of these banks are going to take this offshore CD as
12 collateral?

13 A. I mean, I wasn't -- I wasn't surprised.

14 Q. Why were you not surprised?

15 A. Because the banking system was under severe pressure, not
16 only in the United States but globally, and I -- I think it
17 would have taken a bank a lot of due diligence to have done
18 it. They didn't have time to do that.

19 Q. And at this point -- so that was the fall of '08, you
20 said. Right?

21 A. Yeah.

22 Q. And so at the latest, that meeting with Rodriguez would
23 have been in March of '08.

24 A. Right.

25 Q. So at this point your view was, these SIB CDs, they're

1 not fixed income. Right?

2 A. Right.

3 Q. They're not conservative. Right?

4 A. Right.

5 Q. These are kind of like hedge funds issuances. Right?

6 A. Well, like mezzanine debt to a hedge fund --

7 Q. Sure.

8 A. -- I guess is how I would characterize it.

9 Q. What kind of influence did Tom Espy have on Gary Magness?

10 A. I -- I don't know. I mean, I don't see him on a
11 day-to-day basis, and I didn't have that many conversations
12 with Gary. I'd see him at the meetings, but my communication
13 was frequent and almost always directly through Tonya.

14 Q. Okay. But you were -- you were friendly with Gary?

15 A. I was very -- yeah, I was friendly with Gary. It's just
16 that Tonya was -- was, you know, so ingrained and trusted, and
17 she was here in Denver. And -- and Gary was -- was -- had --
18 had established some distance after going through -- you know,
19 it was a brutal period of time from '97 to 2005. It was
20 absolutely brutal for him. And once things got stabilized
21 and -- and, you know, Tonya was in place, we were in place,
22 the accounting firm was in place, he really left the
23 day-to-day stuff largely to Tonya.

24 Q. What do you mean by 2009, you said?

25 A. Oh, clearly by 2009.

1 Q. Oh, I misunderstood.

2 A. No, she was -- but, I mean, in many respects she was his
3 alter ego. I mean, she was in constant contact with him, she
4 could relate to him and understand him and then come back and,
5 you know, get the rest of us doing what we were doing.

6 Q. What she knew he knew and what he knew she knew?

7 A. Right. But, you know, our -- our involvement at -- at
8 bakerHostetler declined significantly after 2005.

9 Q. With respect to Stanford International Bank, what
10 benefits did Gary Magness or any of the Magness parties
11 receive from Stanford International Bank?

12 A. Other than the interest that was paid on the CDs?

13 Q. Sure.

14 A. I -- I'm not aware that any benefit was -- I mean, that
15 was a contractual benefit. And I think that he -- I know he
16 opted to accrue the interest. But other than that, I don't
17 know of any benefits.

18 Q. Now, you're aware that the Magness parties received \$88.2
19 million from SIB in October 2008?

20 A. Yes, I'm aware of that.

21 Q. Tell me about what you understand those transactions to
22 be.

23 A. The only thing I understood was that the bank loaned Gary
24 that amount of money, and that Tom Espy quarterbacked that
25 loan arrangement.

1 Q. And so what is your understanding as to why the money
2 came out in the form of loans instead of payments of interest
3 or redemptions?

4 A. I had some understanding that some of it was payment of
5 interest, but I could be wrong on that. The only reason that
6 I had some recollection, not at the time but subsequent to
7 that time, was when we were looking at the tax issues and the
8 tax reporting position on that interest at least a year later.

9 Q. Okay.

10 A. We looked at -- you know, from a tax standpoint, we
11 looked at that. And that's when I saw what was going on
12 there.

13 I think that -- I -- what I recall was that they
14 attempted to redeem the certificates because Gary was getting
15 margin calls, and they attempted to speak to their bankers,
16 principally HSBC, to see if that would be at least accepted as
17 collateral so that the stock wouldn't be sold on the margin.

18 And what I recall hearing, but I can't tell you from
19 whom, it was probably from Tonya, because she's the one that I
20 had the most direct contact with, was that the CDs couldn't be
21 redeemed but Stanford could make a loan through the bank.

22 Q. Did that make any sense to you?

23 A. I didn't really care, to be honest with you.

24 Q. Why didn't you care?

25 A. I knew -- I mean, we were in crisis mode, I mean,

1 absolute crisis mode. We were all handling something. I
2 can't recall what I was handling, but, you know, it was crisis
3 time, and I didn't know if it was the same bank that was going
4 to make a loan or whatever. But there was going to be a loan
5 made. I mean, I didn't know why you couldn't redeem if you
6 could make a loan, but that wasn't the point at that -- at
7 that time.

8 Q. Would it be a concern that you have -- I mean, at that
9 point Gary had accrued around \$100 million at SIB. Right?

10 A. Had what?

11 Q. Accrued about a hundred million dollars at SIB?

12 A. I think that's a round number, yeah.

13 Q. And for that bank with such a large position to say, you
14 can't redeem your CDs, that's a concern. Right?

15 A. You know, I didn't -- I didn't know the laws of the bank
16 of Antigua or Antiguan laws. I didn't know what might have
17 been the reason for it, in all honesty. I knew that the money
18 was needed to prevent a wholesale liquidation of some stock
19 positions and the money became available.

20 I also knew nobody went in there and pointed a gun and
21 robbed it. So when they said it couldn't be redeemed, I
22 didn't ask because to ask would have assumed you're going to
23 have to find out about Antiguan law.

24 Q. And you just didn't want to go that extra step?

25 A. I didn't have any reason. I wasn't engaged, I wasn't

1 authorized, I wasn't asked to look at it.

2 Q. But from your recollection, Gary and his entities got
3 told, you can't redeem it. Right?

4 A. That was my recollection.

5 Q. But, nonetheless, it was important for Gary to get as
6 much money out of SIB as possible. Right?

7 A. Yes.

8 Q. And so he just did that in the form of loans.

9 A. Yes.

10 Q. So Gary got out 88.2 million in loans. Did you have a
11 comparison between how that amount of loans compared to loans
12 that SIB typically gave to its customers?

13 A. No.

14 Q. Did you ask that question?

15 A. No.

16 Q. Was that an interesting thing you wish you would have
17 asked?

18 A. No.

19 Q. It doesn't matter if his was the biggest ever --

20 A. No.

21 Q. -- or the smallest ever?

22 A. No.

23 Q. Knowing what you know now, would you have asked that
24 question in the fall of '08?

25 A. No.

1 Q. What was your impression of Allen Stanford from what you
2 had read from him?

3 A. I -- I didn't really -- I can't tell you what my
4 impression was. It wasn't really on my radar scope. It was
5 more of a passing interest. You know, you connect the fact
6 that Gary had some Stanford CDs, some large Stanford CDs, and
7 you read -- but nothing that I was reading that would indicate
8 that this guy's on the precipice of a major fall. I didn't
9 see anything like that.

10 Q. When the SEC filed its lawsuit against Allen Stanford,
11 SIB, Stanford Group Company, all those in February of 2009 --

12 A. Uh-huh.

13 Q. -- you heard about that. Right?

14 A. Yes, uh-huh.

15 Q. When that news broke, were you surprised?

16 A. Yeah.

17 Q. Why?

18 A. Well, I was -- you know, starting back when -- when
19 Madoff broke, I was surprised at Madoff. I'm still surprised
20 at the magnitude of that fraud. And I was on the, you know,
21 firm board for many years, and I'd get a monthly report on the
22 Madoff litigation, and it was shocking to me that somebody
23 could pull something like that off with basically a steam room
24 operation that Madoff was running.

25 And -- and Stanford, I mean, appeared to have at least a

1 more sophisticated operation than Madoff. I mean, you know,
2 there was Laura and Jim Davis and Juan Rodriguez. I mean,
3 with Madoff, it was just Bernie back there running everything,
4 so --

5 Q. Before Madoff, had you heard of the phrase "Ponzi
6 scheme"?

7 A. Sure.

8 Q. What was your understanding of what a Ponzi scheme was
9 generally?

10 A. You put money in, I get my money out, and the guy in the
11 middle that's promoting it to skims some cream.

12 Q. Okay. And so did your understanding as to how a Ponzi
13 scheme worked change after Madoff?

14 A. You know, the only Ponzi schemes that I have run into in
15 my career were -- there were a couple around here, in the
16 Denver area, that's done some. But they were small-time
17 operations. They were 15-, \$20 million operations that some
18 prominent people here in town got stung with.

19 When you're talking about the magnitude of a Madoff or a
20 Stanford, that was far beyond. I mean, you wouldn't -- you
21 wouldn't think with the size of the organizations and the
22 amount of money involved and the amount of people involved and
23 a lot of them sophisticated people, you wouldn't think that's
24 a Ponzi scheme.

25 Q. Did anything about Madoff make you go, Oh, I need to be

1 starting to think about Stanford?

2 A. Not -- I mean, no. I mean, not -- I'm trying to get the
3 timing right.

4 Q. Uh-huh.

5 A. So Madoff started December of 2009.

6 Q. '8?

7 A. '8. So our first year of Madoff in the firm was 2009.

8 No. No.

9 Q. Did you ever ask anyone, Do you think Stanford's running
10 a Ponzi scheme?

11 A. No.

12 Q. Did anyone ever ask you that?

13 A. I don't recall.

14 Q. When did any member of Mango Five or its committees or
15 any of its advisors first suspect that something might be
16 going on at Stanford that was not what it seemed to be?

17 A. Well, I -- you know, going back to our March call with
18 Juan Rodriguez, it was apparent after that call that this was
19 something other than a commonly understood certificate of
20 deposit.

21 Q. Anything before that March call that made you or anybody
22 else that I mentioned think something might be going on at SIB
23 that wasn't what it seemed to be?

24 A. There obviously was something that precipitated us
25 arranging a call or Espy arranging a call on that. Was I

1 aware of anything specific? I certainly don't have any
2 recollection of anything.

3 Q. But there was something -- somebody was asking questions
4 that caused that call to even happen?

5 A. Right.

6 Q. When was the first time you, anybody on the committee and
7 any advisors, directors, anybody that you knew, thought that
8 SIB might be cash strapped?

9 A. After the fall, when my recollection was that an attempt
10 was made to redeem the CDs and they were not able to be
11 redeemed.

12 Q. When was the first time any of those people I just asked
13 about said, Oh, SIB might be insolvent?

14 A. I don't recall anybody ever saying that.

15 Q. When was -- when were any of those people saying to you,
16 SIB might not be telling the truth here?

17 A. The phone call that we had with -- I'll say Laura,
18 because I don't remember who else was on that call. The only
19 recollection I have at the end of that call was after she, and
20 if there were any other Stanford people on the call, after
21 everybody was off, then whoever was present besides Tonya and
22 Espy and me, Tom made the statement that he thought she was
23 lying.

24 Q. And this was the December or January call?

25 A. Yes.

1 Q. And so Tom said that?

2 A. Yes.

3 Q. Did anybody else say, Yeah, me, too?

4 A. No. I was a little surprised he said that. I didn't
5 hear anything that would have led me to say that she was
6 lying. But I didn't know her either.

7 Q. Did you ask Tom, why do you think that?

8 A. If I did, I don't -- I don't recall an answer. I mean,
9 it wasn't any specifics. And as I recall, the report was
10 Stanford put more capital in in November and strengthened the
11 bank.

12 Q. When did anyone you knew first say, Stanford might be
13 running a fraud?

14 A. It was after the Receiver was appointed.

15 Q. Okay. Same question, but when is the first time somebody
16 said, This -- this might be a Ponzi scheme at Stanford?

17 A. I honestly don't recall anybody ever saying it was a
18 Ponzi scheme, at least in the discussions that I was
19 participating.

20 Q. So between the time you first heard about Stanford
21 at all --

22 A. Uh-huh.

23 Q. -- which I think you said it was around when Mango Five
24 started, up until 2009 and the appointment of the Receiver,
25 from your perspective, what red flags were present with

1 respect to SIB or its CDs?

2 A. Well, Tom was always a bit of a red flag for me. I -- I
3 would say the fall, on that October time frame, when I heard
4 that the CDs couldn't be redeemed. But I didn't know why they
5 couldn't be redeemed, and then it seemed to be solved with a
6 loan, so --

7 Q. Other than the -- Tom Espy and the inability to redeem
8 the SIB CDs, what other red flags did you see that were
9 present with respect to SIB or the CDs?

10 A. I -- I didn't -- I mean, I didn't see the red flags.

11 Q. What about that March call with Juan Rodriguez?

12 A. Well, that wasn't a red flag in my mind as to Stanford as
13 a viable, solvent entity. That was a red flag as to the
14 nature of the investment.

15 Q. Okay. What about the December '08, January '09 call with
16 Laura Holt?

17 A. You know, at the time, and then after that call, I was
18 kind of off the radar scope on what -- what went on until the
19 Receiver was appointed. But at the time, it didn't occur to
20 me as any significant call. It was her saying that Allen
21 Stanford had put several hundred million dollars of his own
22 assets into the bank in November to satisfy -- I don't know if
23 it was regulation requirements or whatever. So, I mean, that
24 was the purpose of the -- the call.

25 At the time Gary had the loans outstanding. He was able

1 to use the proceeds of those loans to stave off margin calls
2 at some of his other lenders, and, you know, from our
3 standpoint, the crisis was over.

4 Q. What about the transparency issue we talked about
5 earlier? Was that a red flag for you?

6 A. It -- it wasn't a red flag for me. I just -- you know, I
7 just had that experience from the other family office, that
8 they didn't like hedge funds because there was a lack of
9 transparency and -- you know. A lot of people have made a lot
10 of money with hedge funds even though they're not transparent.
11 It's just, you know, this bias this one office had, and I kind
12 of bought into it.

13 Q. Do you still have that feeling today about hedge funds?

14 A. I do as a general standpoint. I -- I do.

15 Q. So this is a compilation of one exhibit number, 267,
16 Plaintiff's Exhibit 267.

17 A. All right.

18 Q. So are these true and correct copies of your handwritten
19 notes?

20 A. Yes.

21 Q. And you created these within the scope of your duties --

22 A. Yes.

23 Q. -- and responsibilities as secretary of Mango Five?

24 A. Yes.

25 Q. And these are notes that were created at the meetings --

1 A. Yes.

2 Q. -- or near the meetings that they record?

3 A. At the meetings.

4 Q. And you can confirm that all of this is your handwriting?

5 A. Yes.

6 Q. Let's look at the next exhibit in the pile, which is
7 Plaintiff's Exhibit 293.

8 A. All right.

9 Q. If you turn to -- it's Article V, Section 3. It's on
10 Bates label ending 5361.

11 A. Okay. All right.

12 Q. This lists the duties and responsibilities as secretary?

13 A. Right.

14 Q. And you've had these duties and responsibilities?

15 A. Uh-huh.

16 Q. That included keeping a recording of the minutes of Mango
17 Five and keeping the books and records of Mango Five?

18 A. Uh-huh.

19 Q. Yes?

20 A. Yes.

21 Q. And you were tasked with taking the minutes from all
22 meetings of Mango Five in whatever form they were?

23 A. Yes.

24 Q. And as part of your job in taking minutes, you try to be
25 as accurate as possible.

1 A. Yes.

2 Q. Right? And would you try to correct any errors or
3 omissions in the drafts?

4 A. I would have to be prompted by, say, Tonya's review of
5 them. You know, you do the best you can, but you're not
6 nearly as capable as a court reporter, and you've got as many
7 as five or six people talking at the same time --

8 Q. Sure.

9 A. -- so sometimes you need a second set of eyes on what was
10 said.

11 Q. And you would get her review of it and --

12 A. Right.

13 Q. -- try to improve it as much as possible, if necessary.

14 A. Well, try to make it accurate.

15 Q. Right.

16 A. Yeah.

17 Q. And did anyone ever complain about the accuracy of your
18 minutes?

19 A. No.

20 Q. To your knowledge, did Chuck Wilk ever recommend buying
21 more SIB CDs?

22 A. To my knowledge, no, he never recommended.

23 Q. Did he ever recommend cashing in or redeeming or
24 otherwise taking payments out of the SIB CDs?

25 A. I don't have any recollection on that, no.

1 Q. All right. Let's look at Exhibit 134, which should be
2 the October 1st, 2007 minutes of a regular meeting of the
3 board of directors of Mango Five Family, Inc. Right?

4 A. Right.

5 Q. On the page ending 0538, it's the last page --

6 A. Okay.

7 Q. -- the second paragraph says, "Ms. Dokken indicated that
8 she was negotiating with HSBC, U.S. Bank, and Stanford for a
9 new loan facility." What do you recall about that?

10 A. Just -- just what's written there.

11 Q. What was that loan facility?

12 A. It was always refinancing, you know, existing debt. I
13 mean, when the estate of Bob closed, there was significant
14 debt.

15 Q. To this -- in October 1st, 2007, we got this statement
16 from Mr. Knudson. It's the fourth paragraph down. It says,
17 "Mr. Knudson noted the ... advantage of borrowing from
18 Stanford would be the possibility for legal offset in the
19 event that the trust's significant investment in certificates
20 of deposit in Antigua were at risk."

21 A. Right.

22 Q. What -- what does that mean?

23 A. We just -- it was just placed in the minutes a statement
24 that Mr. Knudson had made.

25 Q. So at least as of October 1st, 2007, you had a board of

1 directors meeting. We've got at least one director saying,
2 Certificates of deposit in Antigua could be at risk.

3 A. Well, he said, in the event of -- of risk. In the event
4 that the trust's significant investment in CDs were at risk.
5 That was just anticipatory planning.

6 Q. Was it like him to always wonder, Hmmm, things could be
7 at risk, let me say that out loud?

8 A. Oh, I think that, you know, Steve has been with Gary
9 significantly longer than Gary's been with me, and that's 20
10 years. You know, Steve could comment at any time on the
11 concentration of the assets in Liberty or TCI. This doesn't
12 strike me as anything highly unusual that Steve might say.

13 Q. Is it your experience with Steve that he would consider
14 that things might be at risk, when you're just kind of
15 gratuitously saying that? He didn't have any actual belief
16 that they could be at risk?

17 A. Yeah.

18 Q. Really?

19 A. Yeah.

20 Q. Did that get frustrating at the meetings that he was
21 constantly saying, this might be a risk, this might be a risk?

22 A. Well, no, he wasn't constantly saying that, but, I mean,
23 you know, he just said, you know, of the lenders on the table
24 that you're looking at, here's a consideration. I don't think
25 anybody read anything seriously into it.

1 Q. Okay. Let's look at Plaintiff's Exhibit 133. We've got
2 an agenda and minutes of the regular meeting of the investment
3 committee of Mango Five on October 1st, 2007. Right?

4 A. Right.

5 Q. All right. Let's look at page 491. So this is -- this
6 is the same day that Knudson says, in the event Antigua CDs
7 might -- could be at risk. Right?

8 A. Yeah.

9 Q. Same day. But this certainly says that Mr. Magness asked
10 for a full report about the CD program in Antigua --

11 A. Right.

12 Q. -- and wanted Chuck Wilk to investigate that program?

13 A. Right.

14 Q. So at least as of October 1st, 2007, Mr. Magness himself
15 wants more information about this CD. Right?

16 A. Yes.

17 Q. And he wants an investigation to happen.

18 A. Yes.

19 Q. And what does this mean by "further investigated"? Was
20 there an investigation that happened before this?

21 A. No.

22 Q. No, or you don't remember?

23 A. No, he said further requested.

24 Q. It says, "Could be further investigated" at the bottom.

25 A. It -- it's -- it's not an implication that there was a

1 prior investigation because there was not a prior
2 investigation.

3 Q. All right. Let's look at the Plaintiff's Exhibit 73.
4 And on the second page, which is Bates label ending 7776,
5 we've got item 6. Right?

6 A. Right.

7 Q. It says, "Report on Stanford certificates of deposit."
8 And it says, "GMIT continues to hold the Stanford certificates
9 of deposit, and there have been no redemptions of the
10 certificates of deposit during the reporting period."

11 A. Right.

12 Q. That's all this document says about Stanford. Right?

13 A. Right.

14 Q. This is mere days before the first 25 million comes out
15 of Stanford. Right?

16 A. Right.

17 Q. And this is the same month the 88.2 million comes out of
18 Stanford.

19 A. Right.

20 Q. And all this says is, trust still has CDs?

21 A. Uh-huh.

22 Q. And at this point, during this meeting, did you know that
23 SIB was not allowing redemptions of those certificates?

24 A. No.

25 Q. I want to turn to your handwritten notes that we looked

1 at. It's 267, was the big --

2 A. Okay.

3 Q. -- compilation. All right. We've got the 600 page, six
4 zero zero.

5 A. Right.

6 Q. And this is October 1st, 2007?

7 A. Yes.

8 Q. I will tell you what I think item 8 says, but you correct
9 me, because you know your handwriting better than do -- than I
10 do.

11 A. Right.

12 Q. "Miscellaneous. How investigate Stanford?"

13 A. Right.

14 Q. "Can SEC investigate reports?" Right?

15 A. Right.

16 Q. "Stanford International Bank."

17 A. Right.

18 Q. R stands for you? T for Tonya?

19 A. Yes.

20 Q. "Directed to contact Chuck and see how we go about
21 investigate this"?

22 A. Yes.

23 Q. "Ask Tom to give a report. Stanford banking --"

24 A. Yes --

25 Q. "-- and Stanford International Bank"?

1 A. Uh-huh.

2 Q. What is that -- that B or that C, that cents symbol, that
3 underlined thing?

4 A. And.

5 Q. "And ask Chuck for a report on how to investigate."

6 A. Right.

7 Q. So at this point, according to your contemporaneous
8 minutes, there are reports of SEC investigations on October
9 1st, 2007.

10 A. I don't -- I don't read it that way.

11 Q. How do you read it?

12 A. As a possibility to see if there are SEC reports on this.

13 Q. Oh. So you want to make sure that the SEC's not
14 investigating Stanford?

15 A. It's -- yeah. It just -- it was just kind of a question.
16 And I didn't put a question mark in there, but I don't think
17 it's saying, in my mind, that there are SEC reports.

18 Q. Well, let's -- let's look at that, because in the
19 sentence above, you say, "How investigate Stanford," question
20 mark. So you've just used a question mark. Right?

21 A. Right.

22 Q. And then you say, "Can SEC investigate reports," period.

23 A. Right.

24 Q. Okay. This next document in your set after the slip
25 sheet, just flip a couple of pages.

1 A. Okay.

2 Q. It starts at 605.

3 A. All right.

4 Q. These are your contemporaneous notes from that March 2008
5 meeting in Vegas where you figured out it was a hedge fund.
6 Right?

7 A. That was -- you know, that was my conclusion, yeah.

8 Q. Right. And so at item 2, we start talking about Stanford
9 and about Juan Rodriguez. Right?

10 A. Right.

11 Q. You had a lot of questions for Juan. Right?

12 A. Right.

13 Q. And you say, Stanford is a, quote, international bank.
14 Right?

15 A. Right.

16 Q. And you see that he concedes that that -- as opposed to a
17 commercial bank, that SIB doesn't have loans. Right?

18 A. You're a little ahead of me. "Concedes that as opposed
19 to a commercial bank..."

20 Q. It's investors, not in loans?

21 A. Yeah.

22 Q. Invests not in loans?

23 A. "It invests not in loans, instead follows the Swiss bank
24 model."

25 Q. And I haven't --

1 A. And I earlier said the English merchant bank. It was a
2 Swiss bank model.

3 Q. It's kind of odd, Swiss bank model?

4 A. Swiss bank? Yeah.

5 Q. When you think of Swiss bank model, what do you think of?

6 A. Frankly, I just quoted it, because I have no idea what a
7 Swiss bank model is.

8 MR. SADLER: Your Honor, we're about to go to the
9 next volume. Would you like to take the morning break or let
10 it play into the next volume.

11 THE COURT: Let's go about 15 minutes and break.

12 MR. SADLER: Fifteen minutes. Very good.

13 RAYMOND L. SUTTON, JR., BY VIDEOTAPE DEPOSITION,

14 Q. Now, you're aware that Ralph Janvey was appointed as
15 Receiver for Stanford International Bank as well as the other
16 entities in the Stanford Financial Group?

17 A. Yes.

18 Q. And you know that he was appointed by the Court in
19 February 2009?

20 A. Yes.

21 Q. You know that a receiver can be appointed when an entity
22 is insolvent. Right?

23 A. Yes.

24 Q. You know a receiver can be appointed when a company turns
25 out to be a fraud?

1 A. Yes.

2 Q. Now, you've testified previously that you took accurate
3 minutes at all of those meetings we discussed earlier. Right?

4 A. Yes.

5 Q. And you wouldn't make up something in meeting minutes
6 that wasn't actually said. Right?

7 A. I would not.

8 Q. Especially if you were reporting on something that you
9 yourself said at a meeting?

10 A. Yes.

11 Q. So just for reference, in that notebook to your left is
12 Plaintiff's Exhibit 92. It's a document we looked at before,
13 and I'm going to ask a related question about a newly-produced
14 document. But I just want you to have that for reference.

15 A. Okay.

16 Q. Now, you see that these are the final signed version of
17 the December 5th, 2008 Mango Five investment committee meeting
18 minutes. Right?

19 A. Yes.

20 Q. And you see that last page that you're on has your
21 signature?

22 A. Yes.

23 Q. And it's dated April 9th, 2009?

24 A. Yes.

25 Q. And at the very bottom footer, you see -- the very bottom

1 of the page, you see all those numbers at the bottom?

2 A. Yes.

3 Q. And it says at the end, .3. Right?

4 A. .3?

5 Q. Correct.

6 A. I see -- okay. Yes, I see it.

7 Q. And that indicates that's Version 3. Correct?

8 A. Okay. Yes.

9 Q. So this is the final signed Version 3. Right?

10 A. Yes.

11 Q. Okay. So you said that April 9th, 2009, is the date that
12 you signed it?

13 A. Yes.

14 Q. Okay. So that indicates that at the next investment
15 committee meeting, which is on April 9th --

16 A. Right.

17 Q. -- 2009, these minutes were approved.

18 A. Right.

19 Q. Hand you Plaintiff's Exhibit 384. And if you'd turn
20 to -- I'm sorry. If you'd turn to that last page again, you
21 see that this is Version 2. Right?

22 A. Yes.

23 Q. And you created this Version 2 of the December 5th, 2008
24 investment committee meeting minutes in your capacity as
25 secretary, like you testified about before?

1 A. Yes.

2 Q. All right. So this Version 2 says a couple of things in
3 section 4, Report on Stanford Certificates of Deposit, that I
4 want to ask you about.

5 A. Okay.

6 Q. Okay? So let's look at the first paragraph of 4. That
7 last sentence says, "Mr. Sutton advised that under United
8 States law, if the Bank went into receivership, the loan would
9 not offset the certificates." You see that. Right?

10 A. Yes.

11 Q. And then on the second page at the top, the last sentence
12 of that top paragraph says, "Mr. Sutton advised that if the
13 Bank went into receivership under United States law, GMIT
14 would likely have to repay the 25 million." Right?

15 A. Right.

16 Q. And GMIT is the Gary Magness Irrevocable Trust?

17 A. Yes.

18 Q. And that's a defendant in this lawsuit?

19 A. It is.

20 Q. Okay. And you see earlier, I guess on that first page,
21 "bank" is defined as Stanford International Bank.

22 A. Okay.

23 Q. Do you see that?

24 A. Yes.

25 Q. Okay. Now, you wouldn't have said those two things at

1 the December 8 -- December 5th, 2008 meeting if they weren't
2 true. Right?

3 A. Let me understand the question.

4 Q. Sure.

5 A. I wouldn't have said that -- I wouldn't have made that
6 statement if I didn't believe it was a true statement, or at
7 least, you know, a legal statement.

8 Q. Okay. So you believed what you said?

9 A. Yes.

10 Q. And you wouldn't have put those two sentences in here if
11 you hadn't actually said that at the December 5th, 2008
12 meeting, would you have?

13 A. Well, that became a discussion at the April meeting --

14 Q. Okay.

15 A. -- because these minutes -- this particular part became a
16 discussion, and the minutes as submitted, which are Version 2,
17 were not approved by the committee --

18 Q. Okay.

19 A. -- as not being accurate.

20 Q. Okay. So I just want to understand your testimony. This
21 Version 2 of Plaintiff's Exhibit 384 of the December 5th, 2008
22 meeting minutes for the investment committee, you brought that
23 with you to the April 9th, 2009 meeting?

24 A. Yes.

25 Q. And so this was the -- this was the version you thought

1 was accurate and correct.

2 A. Yes.

3 Q. And when you presented it at that meeting, someone or
4 some people disagreed.

5 A. Yes.

6 Q. Who were those people?

7 A. I -- you know, I don't -- we had a roomful of people. I
8 honestly can't tell you who would have been, you know, the
9 initial objector to it.

10 Q. So you took these minutes, Version 2, there. They
11 said -- somebody or some people said, take out those two
12 sentences.

13 A. Right.

14 Q. With no other modifications. Right?

15 A. Right.

16 Q. So the two sentences that say, it might go into
17 receivership and Gary Magness may owe money to the Receiver,
18 they said take that out?

19 A. Yes.

20 Q. Did you agree with that?

21 A. I did, or I wouldn't have taken it out.

22 Q. It doesn't change the fact that you actually said that at
23 the December 5th, 2008 meeting, though, does it?

24 A. I think that there was a difference of opinion as to what
25 was actually said.

1 Q. Let's take the December 5th, 2008 meeting minutes first.

2 So what is your recollection of what you said at that
3 meeting concerning the two sentences we're discussing today?

4 A. Jeez, I don't have any specific recollection on what was
5 said. I mean, it was a general, you know, discussion about,
6 you know, could there be liability on a clawback theory, and I
7 was putting it out there.

8 Q. Gotcha. And so your best recollection is what you wrote
9 in Plaintiff's Exhibit 384, because that was closer to the
10 time that the meeting actually occurred. Right?

11 A. Yes, it was close to the time.

12 Q. So I just want to be clear on these December 5th, 2008
13 meeting minutes. Both of these sentences say, the common
14 clause is, if the bank went into receivership. Right?

15 A. Yes.

16 Q. That's a -- that's an if?

17 A. Right.

18 Q. So at this point, a receiver had not been appointed for
19 Stanford International Bank. Right?

20 A. Right.

21 Q. You anticipated that one might be appointed for Stanford
22 International Bank?

23 A. I was conjecturing that one could be appointed.

24 Q. Right. And you didn't need the SEC or anyone else to
25 tell you that that was a possibility, did you?

1 A. No.

2 Q. So how did you come to that conclusion, that a receiver
3 might be appointed for SIB?

4 A. I honestly don't know. I don't know if I'd heard things
5 up to that point. I honestly don't know.

6 Q. Was it something that you came up with at the meeting or
7 is it something that you were prepared to discuss at the
8 meeting?

9 A. You know, I honestly don't recall.

10 Q. Okay. Had anyone, prior to December 5th, 2008, asked you
11 to look into, A, whether a receiver might be appointed for
12 SIB; or, B, if one was, what the liability outcome might be?

13 A. No.

14 Q. So your statements about the appointment of a potential
15 receiver in December 2008 came more than two months before a
16 receiver was actually appointed for SIB. Right?

17 A. That's correct.

18 Q. Did you tell anyone else about your conclusion other than
19 the people in the room at this -- at the December meeting?

20 A. Not that I -- not that I recall.

21 Q. Did you tell anybody at BakerHostetler?

22 A. I -- I don't have any recollection. These minutes would
23 have been dictated a few days before the April meeting. That
24 was my sort of habit.

25 Q. Okay.

1 A. So by then, the receiver had been appointed.

2 Q. Right.

3 A. And I knew the receiver had been appointed. And I -- you
4 know, when I dictated the minutes, I might have, you know, you
5 take, like, the -- and in -- in the Madoff case, for example,
6 which I'm very familiar with --

7 Q. Uh-huh.

8 A. -- which my firm is handling, the -- the person's
9 position is trustee, not a receiver, so I was familiar with
10 the trustee by April because I think the Madoff trustee was
11 appointed in December of 2008, if my recollection is correct.

12 MR. SADLER: Is this a good stopping point for the
13 Court?

14 THE COURT: That's fine.

15 We'll take our morning break and see you-all back in 20
16 minutes.

17 (Whereupon, the jury left the courtroom.)

18 THE COURT: Anything else?

19 MR. SADLER: No, sir.

20 MR. PETRIE: No, sir. Thank you.

21 THE COURT: Okay. See you in 20 minutes.

22 (Brief recess.)

23 THE COURT: All set?

24 MR. SADLER: Yes, sir.

25 THE COURT: How much more?

1 MR. SADLER: It's -- IT'S less than 20 minutes.

2 MR. PETRIE: I had a quick question, Your Honor.
3 After you've read the instruction --

4 THE COURT: Uh-huh.

5 MR. PETRIE: -- how, mechanically, would you like us
6 to proceed to march through the corrections?

7 THE COURT: You know, I think I would read the
8 question, the original answer, and the corrected answer.

9 MR. PETRIE: And I have, Your Honor, a cut and
10 paste, if that would be helpful to the Court and to counsel,
11 as to how we propose to proceed. If --

12 THE COURT: I don't personally feel a need to see
13 it.

14 MR. PETRIE: Okay. And mechanically, for example,
15 in some jurisdictions if you have a witness testifying via
16 deposition, so to speak, and you put the person on the stand
17 and you swear them in, are you wanting us to go through that
18 or to just read?

19 THE COURT: Why don't you just read it.

20 MR. PETRIE: Okay. Thank you.

21 (Whereupon, the jury entered the courtroom.)

22 THE COURT: Be seated.

23 The Receiver may proceed.

24 RAYMOND L. SUTTON, JR., BY VIDEOTAPE DEPOSITION,

25 A. And so I'm thinking that the use of the word "receiver"

1 that would have been dictated at the time that I was doing the
2 minutes around the April meeting would have been influenced by
3 the appointment of the receiver in the Stanford case.

4 I'm not familiar with bankruptcy law or SEC law as to
5 what the difference is between a trustee or receiver. So my
6 best answer is that the use of the word "receiver" was
7 probably not used as such in the December meeting. Something
8 else was probably used.

9 Q. Let me pause you right there. So at the December
10 meeting, whether you used the word "receiver" or "trustee" or
11 "officer of the court" or any number of appointed persons, the
12 concept was presented at the December 2008 meeting.

13 A. Yes.

14 Q. Right?

15 A. Yes. That would be a correct statement.

16 Q. And Plaintiff's Exhibit 384 you said was your best
17 recollection of what you actually said --

18 A. Right.

19 Q. -- at the December 5, 2008 meeting.

20 A. Right.

21 Q. Right. And so what you anticipated in December 2008
22 actually came true in February 2009. Right?

23 A. Yes.

24 Q. So you figured out something was up on December 5th,
25 2008, before the Ponzi schemes even hit the news. Right?

1 A. What we did know at the December meeting, as Mr. Espy had
2 indicated, was that there had been a substantial infusion of
3 capital in November of almost a half a billion dollars. And
4 certainly in December of 2008, I didn't know the law of
5 clawbacks or anything like that, although I have had a client
6 in years before --

7 Q. Uh-huh.

8 A. -- who was involved in a hedge fund clawback situation in
9 a New York jurisdiction, and we were involved with that client
10 on a clawback issue. So that experience would be my only
11 familiarity with the law of clawbacks.

12 Q. You figured out, at least by December 5th, 2008, that SIB
13 was in trouble, didn't you?

14 A. No. What I knew was that SIB had had a substantial
15 infusion of capital.

16 Q. And that was concerning you?

17 A. I also knew that SIB had told Mr. Espy that they could
18 not redeem the certificates in October. Those are the two
19 knowns that I was operating under.

20 Q. And you've testified before, at least as to the denial of
21 redemption, that that was -- that was a big red flag, wasn't
22 it?

23 A. Yes.

24 Q. And then followed on with that, you find out about this
25 nearly half a billion infusion of capital. Right?

1 A. Right.

2 Q. And so by December 5th, 2008, you know something is up at
3 SIB. Right?

4 A. Well, let's -- you know, that meeting is -- is within 30
5 days of -- of what is stated as a half-a-billion-dollar
6 capital infusion. So at that point in time, if that was true,
7 it didn't necessarily in my mind mean that we were going to go
8 into receivership, but I was talking generically that under
9 the law of clawbacks, this could be an issue.

10 Q. But there was a -- A possibility a receiver or other like
11 court-appointed officer being appointed. Right?

12 A. I mean, I wouldn't know that short of, you know, the
13 funds getting seized or going into bankruptcy.

14 Q. But you acknowledged at the December meeting that that
15 certainly was a possibility?

16 A. Oh, yes.

17 Q. So let's talk about the substance of these two sentences.
18 The first paragraph is talking about following the denial of
19 redemption, Magness then took out \$63 million in loans.
20 Right?

21 A. Right.

22 Q. And that those loans were collateralized by Mr. Magness'
23 SIB CDs.

24 A. Yes.

25 Q. Right?

1 A. Right.

2 Q. And so that being stated, then you said if the bank went
3 into receivership, the loan would not offset the certificates.
4 Right?

5 A. That was what I put in the minutes.

6 Q. Right. And so I just want to understand what that means.
7 Were you stating that, "Even though you got out the money, Mr.
8 Magness, and even though they're so-called backed by the CDs,
9 those CDs may not offset those loans you owe."

10 A. Yes. I would -- I would say that is how I would have
11 stated it, more as a may.

12 Q. And so, you know, you're stating, "Mr. Magness, even
13 though you got out \$63 million, you may still owe that \$63
14 million back."

15 A. Yes.

16 Q. Irrespective of whether they're collateralized by these
17 SIB CDs?

18 A. Yes.

19 Q. And then the second paragraph talks about how Mr. Magness
20 received \$25 million of interest after the redemption denial.
21 Right?

22 A. Yes.

23 Q. And you then say in that -- well, sorry. Then it's also
24 referencing the capital infusion you talked about earlier.
25 Right?

1 A. Right.

2 Q. And then following that context, you said that if the
3 bank went into receivership, GMIT, the trust that got the
4 interest, correct --

5 A. Right.

6 Q. -- would likely have to repay the 25 million?

7 A. Right.

8 Q. Right. So is there anything about that sentence that
9 doesn't speak for itself?

10 A. The -- the sentence, obviously, was not approved in the
11 April meeting, and if I had felt that I was right and the
12 others were wrong on that, the -- the sentence probably could
13 have been kept if that had been asserted more in the -- you
14 know, you might have to repay or you may have to repay or
15 something like that.

16 I would say reading the sentence now, it was
17 inappropriate to say -- because, obviously, you have very two
18 strongly-litigated positions on the issue. So it -- it -- I
19 had no -- I -- I asserted it more strongly than any lawyer
20 should have asserted it --

21 Q. Okay.

22 A. -- at the meeting.

23 Q. So your issue that we're talking about here is the use of
24 the word "likely." Right?

25 A. Right.

1 Q. Otherwise --

2 A. And would, could.

3 Q. So you would change "could have to repay"? That's a fair
4 revision at this point?

5 A. Yes.

6 Q. Okay. So, in conjunction, these two paragraphs, we've
7 got you observing either at the time likely or now could be
8 liable for \$88 million. Right?

9 A. Right.

10 Q. And you're aware that the Receiver is suing the Magness
11 Defendants for \$88 million. Right?

12 A. Yes.

13 Q. I think the first thing we should talk about and -- and
14 just go over are your roles and responsibilities as a -- for
15 Mango Five. And rather than go through them and just asking
16 you discrete questions one by one by one by one, I'd like you
17 to just talk in your own words about how you saw your role for
18 Mango Five.

19 A. Well, my -- my role prior to formation of the private
20 trust company was always strictly that of an attorney for Mr.
21 Magness and the Magness-related entities. Mr. Magness in his
22 capacity as the personal representative for his late father's
23 estate was really the beginning of that long-time relationship
24 I had with Mr. Magness, and after the formation of the private
25 trust company, he asked me to be a director of that because I

1 had been designated by Mr. Magness as a successor trustee in
2 the event of his death for the GMIT, which is the Gary Magness
3 Irrevocable Trust.

4 And so when we formed the private trust company, he asked
5 me to be a director, because we wanted to have three
6 directors, and I was -- I was then the secretary of the
7 corporation. I was an investment committee member and a
8 distribution committee member.

9 And after we amended the bylaws to create advisors for
10 the investment committee while Mr. Magness was alive, I became
11 no longer an investment committee member with a fiduciary
12 duty, but I was an investment advisor to the committee.

13 Q. And in acting as an advisor, were you tasked with
14 providing legal advice -- I'm sorry, not legal advice, were
15 you tasked with providing investment advice to Mango Five?

16 A. No, not -- not as such. Maybe offer an opinion. I mean,
17 Mr. Magness was well aware that in my practice I represent a
18 fairly significant number of very high net worth family
19 offices that have different levels of investment capability
20 within those offices, something I testified to with Mr. Day in
21 the first deposition. And so my awareness of best practices
22 followed by other similarly-situated clients was something he
23 was interested in.

24 Q. And so one of the things that you brought to the table,
25 so to speak, was knowledge about family office best practices.

1 Is that fair?

2 A. Yes.

3 Q. And so you -- is it fair to say that you were not an
4 advisor on the investments that the Mango Five entity had?

5 A. Well, what is fair to say is that -- that, for example,
6 there were some stock trades that Mr. Magness would make. I
7 was never involved in that. I was never involved in a
8 decision or a question for advice on purchasing new
9 securities. I was never involved in purchasing the Stapleton
10 Business Center investment that we talked about earlier this
11 morning.

12 So I didn't -- I didn't weigh in on specific investments
13 that Mr. Magness was making.

14 Q. In your prior testimony, Mr. Day asked you a series of
15 questions about information that you came in contact with
16 while you were working -- you know, serving as a member of
17 Mango Five, and I just want to touch on a few of these points
18 and ask a few follow-up questions.

19 So one of the things that you testified about during this
20 time period was that you're a pretty well-read, as far as news
21 is concerned, person. Is that right?

22 A. Yes.

23 Q. And I believe you testified that you read three
24 newspapers on a regular basis every day.

25 A. Right.

1 Q. And you read a few business magazines a month. Is that
2 right?

3 A. Yes.

4 Q. I think Mr. Day established with you at the beginning of
5 this deposition today that the Stanford receivership was
6 appointed in February of 2009. Do you remember that?

7 A. Yes.

8 Q. And considering just -- or considering that time period,
9 so February 2009, I want you to think of that as the date the
10 Receiver was -- was put into place, in February 2009, and then
11 I want you to think of the time before the Receiver was put in
12 place, so before February 2009.

13 A. Right.

14 Q. So are we clear what we're talking about? Before
15 February of 2009, in all of your reading, had you ever come
16 across a news article about Stanford International Bank that
17 made you think that Stanford International Bank was insolvent?

18 A. No.

19 Q. Did you ever in all of your reading before February of
20 2009 ever come across a news article that made you think that
21 Stanford International Bank was a fraud?

22 A. No.

23 Q. Did you ever come across a news article before 2009 that
24 made you think Stanford International Bank was a Ponzi scheme?

25 A. No.

1 Q. Did anyone bring any news articles to your attention
2 before February of 2009 that they had found that they thought
3 suggested that Stanford International Bank was a fraud?

4 A. Not that I recall.

5 Q. And similarly, no one else brought you news articles that
6 they thought suggested Stanford International Bank was a Ponzi
7 scheme before February 2009?

8 A. Not that I recall.

9 Q. In serving as a Mango Five representative in your various
10 capacities, did you ever learn about any government --
11 governmental investigation of Stanford International Bank
12 before February of 2009?

13 A. Not that I recall.

14 Q. And in any capacity, even outside of Mango Five, did you
15 come across any sort of information about a governmental
16 information of Stanford International Bank before February of
17 2009?

18 A. No, not that I recall.

19 Q. Let's take a look at Exhibit 384, and that's in the stack
20 of documents you got today.

21 A. All righty.

22 Q. And you recall that Exhibit 384, you testified earlier,
23 was a prior version of the December 5th, 2008 minutes of the
24 annual meeting of the investment committee of Mango Five
25 Family, Inc.

1 A. That's correct.

2 Q. And I just want to clarify. This version that was typed
3 up, what is your best understanding of the time frame in which
4 you would have dictated your written notes and then Linda Key
5 would have transcribed them in relation to the actual date of
6 the meeting, December 5th, 2008?

7 A. My practice was to dictate the minutes of a meeting
8 within one to two weeks immediately prior to the next
9 scheduled meeting. So the next scheduled meeting wasn't as
10 faithful as quarterly meetings, which we tried to do, but
11 depending on schedules, at least three months later, sometimes
12 four months after the actual meeting took place, would I
13 dictate the minutes.

14 Q. And so these December -- the minutes for the December
15 5th, 2008 meeting were not typed up until at least a few
16 months after December 5th, 2008. Is that right?

17 A. The actual dictation of these minutes would have taken
18 place more than two months after the meeting itself.

19 Q. And so the date of the meeting was December 5th, 2008.
20 That's right?

21 A. Right.

22 Q. And so two months later would put it -- January 5th is
23 one month. February 5th, 2008 would be two months later. Is
24 that right?

25 A. That would be right.

1 Q. So that's probably the earliest that they would have been
2 dictated, your minutes.

3 A. Well, I think the general practice -- and, again, we
4 could -- you'll probably find an exception, but the general
5 practice was that the pending subsequent meeting would prompt
6 me to do the minutes of the prior meeting.

7 Q. And the next meeting was in April 2009. Isn't that
8 right?

9 A. That's correct.

10 Q. Okay. So it's possible that these weren't typed up until
11 March of 2009.

12 A. It's likely they were not typed up until March.

13 Q. And so -- and do you recall when they were actually typed
14 up?

15 A. No.

16 Q. So when you were looking at your notes and making the
17 dictation that led to this particular written draft that we're
18 looking at in Exhibit 384, if that dictation took place in
19 March of 2008 [sic], that dictation happened after the
20 Stanford receivership was put into place. Is that right?

21 A. Well, actually, I think I testified -- well, the April
22 meeting followed the appointment of the Receiver. The fact
23 that I used the Receiver identified as the receivership in
24 these minutes I think strongly supports my recollection these
25 meeting minutes were dictated after the appointment of the

1 Receiver.

2 Q. And so the fact that the Receiver had been appointed was
3 on your mind at the time you were dictating these minutes. Is
4 that right?

5 A. Assuming my recollection is correct, then that's right.
6 Obviously, I would have known that there was a Receiver.
7 Again, in the corollary case, the Madoff case that we were
8 handling, there wasn't a receivership. It was a trusteeship.
9 So --

10 Q. You testified earlier today that at some point in time in
11 the past you had represented an entity that got involved with
12 some sort of investment for which a receiver was appointed.
13 Do you remember talking about that?

14 A. Yes.

15 Q. And so you had some experience in your professional
16 career with receivership or a receivership. Is that right?

17 A. Yes. I don't know if it was a trusteeship or
18 receivership. I had an individual client who had made a hedge
19 fund investment in New York and the fund was seized. My
20 client had gotten money out, and the trustee/receiver asserted
21 a clawback for the money that was gotten out. So I was
22 familiar with a clawback situation in general.

23 Q. And so that general experience would have informed your
24 statements in the December 5th, 2008 version of the minutes
25 that we're looking at in Exhibit 384.

1 A. Yes.

2 Q. Plaintiff's Exhibit 384, which is one we talked about
3 today.

4 A. Okay.

5 Q. So when you -- when you talked with me earlier, when you
6 said that your -- your issue with the last two sentences,
7 right --

8 A. Right.

9 Q. -- you advising under U.S. law?

10 A. Right.

11 Q. We know what sentences we're talking about?

12 A. Right.

13 Q. You said maybe you said it too strongly. That was your
14 issue number one. Right?

15 A. Right.

16 Q. So it was changing "would not offset to may not offset
17 the certificates" and to "may not offset the certificates."
18 Right?

19 A. Right.

20 Q. And it was changing "would likely have to repay" to
21 "could have to repay." Right?

22 A. Yes.

23 Q. That was one issue. And then the only other issue was
24 you went, "Well, maybe 'receiver' was in my mind when I
25 actually typed these notes up," but --

1 A. When I dictated them.

2 Q. When you dictated them, right. And reviewed them and
3 revised them. Right? Right?

4 A. Right.

5 Q. But, nonetheless, you recall at the December 5th, 2008
6 meeting raising the point of potential liability for \$88
7 million. Right?

8 A. Right.

9 Q. And you remember telling the people at that meeting,
10 whether it was receiver or trustee or other court appointment,
11 someone might be appointed for SIB. Right?

12 A. There's a lot in that question that I don't have any
13 recollection of. I mean, I think the point was raised at the
14 meeting that, you know, those kind -- you know, the
15 transaction could be looked at if something happened to
16 Stanford.

17 Q. Okay.

18 A. Going beyond and saying receiver, trustee, I wouldn't
19 have known that.

20 Q. Okay. So -- but as you testified earlier, this
21 Plaintiff's Exhibit 384 was your best recollection of what was
22 said at the meeting.

23 A. Yeah, it was my recollection of what was said at the
24 meeting.

25 Q. And you created this document, Plaintiff's Exhibit 384,

1 or caused it to be created by Ms. Key much closer to the time
2 of December 5th, 2008 than today. Right?

3 A. Yes. I -- the -- the minutes were probably prepared
4 within a month of the April 2009 meeting.

5 Q. And Ms. Mentz asked you about the experience you had with
6 a client who part of their interactions were with either a
7 trustee or a receiver. Right?

8 A. Right.

9 Q. And that that informed your experience or understanding
10 of clawback actions.

11 A. Yes.

12 Q. Right? And so that experience with either the receiver
13 or the trustee, did that predate December 5th, 2008?

14 A. Yes.

15 Q. When was that?

16 A. Honestly don't know.

17 Q. Was it within that year or in a prior year?

18 A. Probably a prior year.

19 Q. So even though you said earlier it's possible that a
20 receiver was on your mind when you were actually dictating the
21 minutes, you had heard of the concept of a receiver before
22 dictating the minutes.

23 A. No. As I said, I don't -- I am very familiar with the
24 situation the other client was in, and I could not tell you
25 whether it was clawed back by a trustee or a receiver.

1 Q. Okay. But the -- the concept of a court-appointed
2 official to claw back funds was something you were familiar
3 with.

4 A. Yes.

5 MR. SADLER: Your Honor, that concludes the
6 presentation of Mr. Sutton on behalf of the Receiver.

7 THE COURT: All right. I need to give you a very
8 short instruction at this point.

9 On July 14, 2016, Ray Sutton provided the deposition
10 testimony that you have just heard. After the completion of
11 his deposition, Mr. Sutton had the opportunity to review a
12 written transcript of his deposition. Following that review,
13 on August 10, 2016, Mr. Sutton submitted written changes to
14 his deposition testimony, including changes to some of the
15 testimony you just heard. The Magness parties' counsel will
16 now read those changes to you.

17 MS. MENTZ: Morning.

18 Question: "So you took these minutes, Version 2 there,
19 they said somebody or some people said take out those two
20 sentences."

21 Original answer: "Right."

22 Revised answer: "No. It was a consensus of opinion
23 those sentences did not belong."

24 Explanation: "Upon further reflection and after having
25 refreshed my memory regarding the overall timeline of events

1 using the deposition transcript, I realized that there was no
2 discussion at the December 5th, 2008 meeting regarding this
3 issue."

4 Question: It doesn't change the fact that you actually
5 said that at the December 5th, 2008 meeting, though, does it?"

6 Original answer: "I think there was a difference of
7 opinion as to what was actually said."

8 Revised answer: "No. My comments were not made at the
9 December 5th meeting but rather in a separate discussion
10 several months later."

11 Explanation: "Upon further reflection and after having
12 refreshed my memory regarding the overall timeline of events
13 using the deposition transcript, I realized that there was no
14 discussion at the December 5th, 2008 meeting regarding this
15 issue."

16 The question: "So let's take the December 5th, 2008
17 meeting minutes first. So what is your recollection of what
18 you said at that meeting concerning the two sentences we're
19 discussing today?"

20 Original answer: "Jeez, I don't have any specific
21 recollection on what was said. I mean, it was a general, you
22 know, discussion about, you know, could there be liability on
23 a clawback theory, and I was putting it out there."

24 Revised answer: "There was no discussion at the December
25 5th meeting. Rather, the discussion occurred several months

1 later."

2 Explanation: "Upon further recollection and after having
3 refreshed my memory regarding the overall timeline of events
4 using the deposition transcript, I realized that there was no
5 discussion at the December 5th, 2008 meeting regarding this
6 issue."

7 Question: "So your statements about the appointment of a
8 potential receiver in December 2008 came more than two months
9 before a receiver was actually appointed for SIB. Right?"

10 Original answer: "That's correct."

11 Changed answer: "That's not correct. My mention of the
12 appointment of a receiver occurred during a subsequent
13 conversation that occurred several months later."

14 Explanation: "Upon further reflection and after having
15 refreshed my memory regarding the overall timeline of events
16 using the deposition transcript, I realized that there was no
17 discussion at the December 5th, 2008 meeting regarding this
18 issue."

19 Question: "Let me pause you right there. So at the
20 December meeting, whether you used the word 'receiver' or
21 'trustee' or 'officer of the court' or any number of appointed
22 persons, the concept was presented at the December 2008
23 meeting?"

24 Answer: "Yes."

25 Question: "Right?"

1 Answer: "Yes, that would be a correct statement."

2 Revised answer: "No. The concept of a receiver was not
3 discussed at the December 2008 meeting but rather occurred
4 during a separate conversation that occurred several months
5 later."

6 Explanation: "Upon further reflection and after having
7 refreshed my memory regarding the overall timeline of events
8 using the deposition transcript, I realized that there was no
9 discussion at the December 5th, 2008 meeting regarding this
10 issue."

11 Question: "And Plaintiff's Exhibit 384 you said was your
12 best recollection of what you actually said --"

13 Answer: "Right."

14 Question: "-- at the December 5th, 2008 meeting."

15 Answer: "Right."

16 Question: "So what you anticipated December 2008
17 actually came through this in February 2009?"

18 Answer: "Yes."

19 Revised answer: "Incorrect. The discussion occurred in
20 a subsequent conversation that occurred several months later."

21 Explanation: "Upon further reflection and after having
22 refreshed my memory regarding the overall timeline of events
23 using the deposition transcript, I realized that there was no
24 discussion at the December 5th 2008 meeting regarding this
25 issue."

1 Question: "And so by December 5th, 2008, you know
2 something is up at SIB. Right?"

3 Answer: "Well, let's -- you know, that meeting is within
4 30 days of what is stated as a half-a-billion-dollar capital
5 infusion. So at that point in time, if that was true, it
6 didn't necessarily in my mind mean that it was going to be
7 going into a receivership, but I was talking generically that
8 under the law of clawbacks, this could be an issue."

9 Revised answer: "Talking in a later meeting generically
10 that under the law of clawbacks, this could be an issue."

11 Explanation: "Upon further reflection and after having
12 refreshed my memory regarding the overall timeline of events
13 using the deposition transcript, I realized that there was no
14 discussion at the December 5th, 2008 meeting regarding this
15 issue."

16 Question: "But you acknowledged at the December meeting
17 that that certainly was a possibility."

18 Answer: "Oh, yes."

19 Revised answer: "No. That discussion regarding the
20 possibility of a receiver or other like court-appointed
21 officer did not occur until a subsequent conversation that
22 occurred several months later."

23 Explanation: "Upon further reflection and after having
24 refreshed my memory regarding the overall timeline of events
25 using the deposition transcript, I realized that there was no

1 discussion at the December 5th, 2008 meeting regarding this
2 issue."

3 Question: "But, nonetheless, you recall at the December
4 5th, 2008 meeting raising the point of potential liability for
5 \$88 million. Right?"

6 Answer: "Right."

7 Revised answer: "No. That discussion regarding the
8 possibility of a receiver or other like court-appointed
9 officer did not occur until a subsequent conversation that
10 occurred several months later."

11 Explanation: "Upon further reflection and after having
12 refreshed my memory regarding the overall timeline of events
13 using the deposition transcript, I realized that there was no
14 discussion at the December 5th, 2008 meeting regarding this
15 issue."

16 Question: "And you remember telling the people at that
17 meeting, whether it was receiver or trustee or other court
18 appointment, someone might be appointed for SIB. Right?"

19 Answer: "There's a lot in that question that I don't
20 have any recollection of. I mean, I think the point was
21 raised at the meeting that, you know, those kind -- the
22 transaction could be looked at if something happened to
23 Stanford."

24 Revised answer: "There's a lot in that question that I
25 don't have any recollection of. I mean, I think the point was

1 raised at the later meeting that, you know, those kind -- the
2 transaction could be looked at if something happened to
3 Stanford."

4 Explanation: "Upon further reflection and after having
5 refreshed my memory regarding the overall timeline of events
6 using the deposition transcript, I realized that there was no
7 discussion at the December 5th, 2008 meeting regarding this
8 issue."

9 Question: "Okay. But as you testified earlier, this
10 Plaintiff's Exhibit 384 was your best recollection of what was
11 said at the meeting?"

12 Answer: "It was my recollection of what was said at the
13 meeting."

14 Revised answer: "Upon further reflection, I realized
15 that there was no discussion at the December 5th, 2008 meeting
16 regarding this issue."

17 Explanation: "Upon further reflection and after having
18 refreshed my memory regarding the overall timeline of events
19 using the deposition transcript, I realized that there was no
20 discussion at the December 5th, 2008 meeting regarding this
21 issue."

22 Thanks.

23 MR. SADLER: May we proceed with our next witness?

24 THE COURT: Please.

25 A PANEL MEMBER: What she just read, would that be

1 advisable for us to review.

2 THE COURT: It's treated just like the other
3 deposition testimony.

4 A PANEL MEMBER: Okay. Thank you.

5 MR. SADLER: We call, Your Honor, our final witness,
6 Ms. Karyl Van Tassel.

7 May I proceed, Your Honor?

8 THE COURT: In just a one second.

9 MR. SADLER: Yes, sir.

10 THE COURT: Could you raise your right hand, please?
11 (Whereupon, the oath was administered by the Court.)

12 THE COURT: You may proceed.

13 MR. SADLER: Thank you, Your Honor.

14 KARYL VAN TASSEL, SWORN,

15 DIRECT EXAMINATION

16 By Mr. Sadler:

17 Q. Good morning, Ms. Van Tassel.

18 A. Good morning.

19 Q. Would you please introduce yourself to the jury?

20 A. My name is Karyl Van Tassel.

21 Q. And, Ms. Van Tassel, first, I want to just establish with
22 you there are three -- three general subjects we're going to
23 cover this morning and then -- and then after the lunch break.

24 First is your role in this trial because it's a little
25 different. But in order to understand your role, we're going

1 to go over your background, your qualifications, your -- your
2 experience.

3 And then, finally, the third thing we're going to talk
4 about is the facts you've uncovered and some opinions you have
5 here to share with the jury. And I just want to be sure we're
6 clear on those are the three things we're going to talk about.

7 A. Yes, that's my understanding.

8 Q. All right. Well, let's get going then.

9 First of all, tell the jury where did you grow up?

10 A. I was born and raised in Grand Junction, Colorado, but
11 I've lived in Houston, Texas, for the last 17 years.

12 Q. And tell us a little bit about your family situation down
13 there.

14 A. I live with my teenage son in a suburb of Houston.

15 Q. And where do you currently work?

16 A. I am a managing director with Navigant Consulting.
17 Navigant is a global consulting firm that has expertise in a
18 variety of areas. One of those is litigation and
19 investigations.

20 Q. And Navigant a small company, big company? Just give us
21 a general understanding.

22 A. Large multinational. We have 50 offices that are
23 both -- they're all in the U.S., Canada, the Middle East,
24 Asia, and Europe.

25 Q. All right. Would you give the jury an overview of

1 your -- your education and work experience? I think we may
2 have a slide that will help us with that, but tell us about
3 that.

4 A. Well, I graduated with my accounting degree in 1985. I
5 guess that dates me. But for the last 30 years then, I have
6 been working in a variety of different accounting areas,
7 including auditing, tax, valuing small businesses, or
8 privately-held businesses at least, also doing consulting
9 of -- of different varieties, including expert witness
10 testimony on economic damage claims, and investigation and
11 forensic accounting.

12 Q. And -- and prior to Navigant, there are two other firms
13 that you've done similar work for?

14 A. I have. Just prior to Navigant, I was a partner with
15 PricewaterCoopers. PWC is one of the four -- the big four
16 accounting firms that are the largest global accounting firms
17 in the world. I was a partner there for three years.

18 Prior to that, and that takes me back to the time when I
19 started the Stanford Receivership, I was with FTI Consulting
20 for eight years. FTI is very similar to Navigant. It's a
21 large, global, multinational consulting firm, same area of
22 expertise in disputes and investigations.

23 Q. And -- and what professional licenses do you hold?

24 A. I am a CPA in the state of Texas. I belong to the
25 American Institute of CPAs and the Texas Society of CPAs.

1 Q. And -- and could you tell the jury a little bit more
2 about your experience in this area of investigations and
3 forensic accounting?

4 A. Well, I've been involved in that area really for a better
5 part of 25 years of my total 30 years of experience. Those
6 kinds of cases arise when there's some kind of issue relating
7 a financial dispute or some kind of financial impropriety.

8 And so oftentimes we're called upon to come in and look
9 at either recovery of the money or the assets that might be at
10 issue, or to find out just what happened from a financial
11 standpoint.

12 Some of the types of things that I've been involved in
13 have been, from an accounting perspective, accounting fraud
14 where there's misstatement of a financial statements, either
15 the numbers or some of the disclosures that are required;
16 embezzlement, good old-fashioned people taking money; and also
17 in arson cases, where there's been a fire and there's some
18 implication of a financial motive, we go back in and kind of
19 recreate the records and what happened in the business.

20 Q. Now, this term of "forensic accounting," can you expand
21 on that a little bit and help the jury understand that?

22 A. Yeah. Forensic accounting is really going in and looking
23 at, we call it, the real economic substance of what happened.
24 We go through transactions, data, we do interviews, to try to
25 piece as much information together as we can to determine what

1 really happened.

2 Then we compare that to what has been reported maybe to
3 the public or to bankers, whatever that might be, to see if
4 there's a differential and therefore a potential problem.

5 Q. And over your career, can you tell us about how many
6 different cases or investigations you've worked on that
7 involve some kind of financial fraud, financial impropriety?

8 A. Well, I -- it would be over a hundred different cases
9 that I've been involved in that involved some kind of
10 financial impropriety.

11 Q. There's also been some mention of the term "Ponzi scheme"
12 during this trial. Is Ponzi scheme something you have
13 experience investigating in your career?

14 A. I have. I've been involved in three other Ponzi schemes
15 prior to the Stanford receivership.

16 Q. And can you help us understand, is there something
17 different, is Ponzi scheme different from financial fraud, or
18 help us understand that?

19 A. Ponzi scheme is really just a type of financial fraud.
20 Financial fraud at its -- it's common base is really that
21 there has been some kind of false statement, and a company has
22 to make that false statement because they're covering up a
23 lie, either that there's assets that don't exist, there's
24 sales that don't exist, maybe inventory, whatever that lie may
25 be. And from an individual, it's covering up their lie that

1 they took money.

2 So no matter how you look at it, and a Ponzi scheme is
3 the same, it's a coverup of a lie because of something that
4 has happened that's improper.

5 Q. Now, you were here, were you not, for the testimony we
6 just heard from Mr. Sutton about the meeting minutes and the
7 different versions of the meeting minutes and taking stuff
8 out? Were you here for that testimony?

9 A. I was, yes.

10 Q. So I want to ask you, in your background investigations
11 that you have done in other matters, what kind of examples
12 have you seen of people going in, changing documents, putting
13 things in, taking them out as part of the coverup?

14 A. Well, that happens a lot. I mean, I've seen faked bank
15 statements, invoices, all kinds of things. I had one case
16 actually where we were trying to figure out if there were some
17 sales that had been recorded that weren't real, and we were
18 going to look through trends. And, finally, we asked a
19 bookkeeper, and she said, Oh, you need to look for the
20 invoices that start with an F; those are the fake invoices.

21 So even they themselves oftentimes have to keep track of
22 what they're actually doing versus, you know, the fake
23 information in their ledgers.

24 Q. And let's talk about your experience as an expert witness
25 giving testimony as you are here today. Setting aside the

1 Stanford litigation, how many times have you been qualified as
2 an expert and had to testify?

3 A. It's probably been about 50 times over my career.

4 Q. 50, five-0?

5 A. Five-0, yes.

6 Q. And if we're talking about Stanford-related litigation,
7 and by that, I mean litigation related to the Stanford
8 receivership, about how many times have you testified in
9 matters related to that?

10 A. Well, I think the count stands now at about 13
11 depositions. There have been three other trials where I've
12 testified like here in front of a jury, two hearings where we
13 appeared before the Judge, and I think that's it.

14 Q. And we've seen a lot of deposition testimony that's been
15 presented to us in connection with this case. Did you sit for
16 a deposition where the lawyers here could ask you questions
17 about the facts and your opinions and so forth?

18 A. Well, I didn't sit for a deposition. I've had four
19 depositions in this case.

20 Q. With regard to your work, again not related to this case,
21 but regard to your other work in Stanford litigation, has your
22 work been cited in court decisions?

23 A. Well, first of all, I have a team that does the work, so
24 I can't take credit for all of that. But the conclusions that
25 I've come to and the opinions that I've made have been cited

1 with approval in 15 different court decisions.

2 Q. All right. So now we know a little bit about who you are
3 and what kind of work you do. I now want to talk about the
4 kinds of things that you reviewed to form the opinions, to
5 develop the facts, that you're here to testify about.

6 First of all, let me confirm, have you been here for the
7 entirety of this trial, all last week and this morning?

8 A. I have. There were a few hours last Friday that I had to
9 take care of a family matter and I left a little early, but
10 other than that, I've been here.

11 Q. Okay. And so you have seen the testimony that's been
12 presented not only from the witness stand but up on the screen
13 as well?

14 A. Yes, I have.

15 Q. So I want to ask you about, because we've had a number of
16 witnesses, and I just want to be very clear what you have
17 looked at with respect to these witnesses. So let's -- let's
18 start with Mr. Magness, obviously.

19 You had a chance to review his testimony that he gave
20 here, I take it?

21 A. Yes, I was here for that.

22 Q. Did you, prior to this trial, have the opportunity to
23 review Mr. Magness' deposition that he gave and the documents
24 that he was asked about and so forth?

25 A. Yes. The deposition, all the documents, and some written

1 responses in interrogatories.

2 Q. And then with respect to Mr. Knudson, Mr. Magness'
3 business partner and so forth, were you likewise present for
4 his testimony live here in court?

5 A. Yes, I was here.

6 Q. And again, prior to the trial, did you review the
7 deposition he gave, the questions and answers, the documents
8 that he discussed in that deposition?

9 A. Yes, I have reviewed all of those before my opinions.

10 Q. And being someone who has testified in matters related to
11 litigation, are you familiar with what discovery is,
12 interrogatories, things such as that?

13 A. Yes. I've had to learn that over time.

14 Q. And give us, just very brief, what are those kinds of
15 materials?

16 A. Well, those are materials such as the Complaint, which
17 reflects what the issues are in a case, or the Answer, which
18 is how the defendant might answer. Interrogatories are simply
19 questions put between the parties and -- and answered.

20 Q. And -- and those kinds of discovery materials, the -- the
21 pleadings like the Complaint and other things,
22 interrogatories, have you reviewed those in connection with
23 your gathering of facts in this case?

24 A. I have, yes.

25 Q. And then let's talk about the other witnesses, to be

1 clear. Ms. Dokken, the CFO for the Magness people, she
2 testified. And then we had Mr. Espy -- the advisor and
3 friend, racing partner of Mr. Magness.

4 Did you use the same process that you've just described
5 with respect to what you reviewed in connection with their
6 testimony.

7 A. Yes. Their testimony was the same: depositions,
8 everything that went with them, and any statements they made.

9 Q. All right. And, likewise, we had some other folks, some
10 lawyers, financial advisors, who worked for Mr. Magness. I
11 think there was Mr. Bell, Mr. Armstrong, and of course we just
12 saw Mr. Sutton.

13 Did you, again, use the same process--review all of those
14 same materials with respect to their testimony?

15 A. I have, yes.

16 Q. And then finally or next to finally, we saw a couple of
17 folks who were a little different. Mr. James Davis and -- who
18 you are familiar with. We will talk with him in a moment.
19 And Chuck Wilk, who worked for the Magness folks. Both of
20 those gentlemen were convicted felons.

21 Did you review, nevertheless, the same kinds of materials
22 related to them?

23 A. I did, the information that was available from them.

24 Q. And then with respect to Mr. Davis, did you have an
25 opportunity to review some different kinds of information

1 related to him?

2 A. Yes. For Mr. Davis, he had a plea agreement, and I
3 actually read that plea agreement and the hearing transcript
4 that goes along with it. They have to go to court and tell
5 the judge what they're going to plead to.

6 Additionally, Mr. Stanford was tried in a criminal
7 proceeding for six weeks down in Houston. So it was kind of
8 fun. I went and listened to all of Mr. Davis' testimony.
9 Just fun for an accountant. But I listened to all of Mr.
10 Davis' testimony, which was a big part of that, so I could
11 understand what he had to say, and also all the other
12 witnesses that had to do with accounting and financial
13 matters. I have the transcript available to me as well.

14 Q. And then I think--we're almost finished--Mr. Tolentino,
15 you're familiar with who he is. He's the president of the
16 former bank.

17 A. I am.

18 Q. And did you have an opportunity not only to review the
19 portion of the deposition that was played here, but other
20 depositions he's given in Stanford-related litigation where
21 he's had to answer questions about his role in the fraud?

22 A. Yes, I have reviewed those.

23 Q. And then, finally finally, we had Mr. Graves. What did
24 you review of Mr. Graves' work?

25 A. I think Mr. Graves had two reports and one deposition,

1 and I reviewed those, in addition to being here for his
2 testimony.

3 Q. All right. So those are the witnesses. Those are the
4 materials you have looked at. I just want to make a couple of
5 things clear if they're not already clear.

6 First of all, with respect to Mr. Janvey, are you a
7 friend, financial advisor, lawyer for Mr. Janvey?

8 A. No. None of those. I've worked in the capacity of the
9 Receiver working as an investigator for the receivership.

10 Q. And I don't want to pry, but are -- are you a convicted
11 felon?

12 A. No, I'm not a convicted felon.

13 Q. All right. Are you -- are you like Mr. Graves, who we
14 heard from, who was hired by the Magness folks to come in,
15 spend a couple of weeks working on the case, and then come
16 testify?

17 A. No, I'm -- I'm different than that. I think Mr. Janvey
18 testified about, you know, how this started, and going into
19 the offices of SIB. I was there that day, and so I've been
20 involved as overseeing the investigation for almost eight
21 years now.

22 Q. All right. Well, let's -- let's talk about your role
23 then in the -- in the whole Stanford receivership, not just
24 this case.

25 Tell the jury a little bit, how did you first come to be

1 involved with the Stanford receivership back in 2009?

2 A. In 2009, I was then with FTI Consulting. I received a
3 call from a Baker Botts attorney, and FTI was then engaged the
4 same day that Mr. Janvey was appointed.

5 Q. And the firm FTI that you worked for, what was to be the
6 role of the firm that you worked for?

7 A. Broadly, we were to be the lead forensic investigatory
8 firm.

9 Q. And then your role for FTI for the Receiver, what was
10 that to be at the beginning?

11 A. My role was just to oversee all the work that we were
12 doing. We had many, many people, as you might imagine,
13 involved, and I just oversaw what we were doing and how we
14 proceeded with our work.

15 Q. Were you the lead investigator for the Receiver?

16 A. I have been, yes.

17 Q. All right. Can you -- you guys have done a lot of work
18 over the past several years, but can you tell the jury, just
19 encapsulate it for us, the top biggest sort of three or four
20 categories of work that you did with FTI and then as it
21 continued?

22 A. Well, you know, first of all, or our most important job
23 in the beginning was to lock down the assets, including the
24 electronic data, to make sure other people couldn't get access
25 to them because that was something that the Receiver needed.

1 I've also been involved in looking at the various
2 Stanford entities--you heard there is 130 of
3 those--understanding how they worked together. We do that by
4 understanding the flow of funds between them, because we
5 needed to see how the money -- tracing the money, following
6 the money, how it was allocated and disbursed. So we did that
7 a lot through bank statements, that kind of work.

8 We certainly came to understand that the SIB CDs were key
9 to part of this fraud, so we spent a lot of time understanding
10 those and what was happening about those.

11 Then as time went on, we've been involved in litigation
12 now, and also FTI, at least, is involved in the claims
13 process, where there's a submission by investors who've lost
14 money.

15 Q. And was it one of the early tasks of you and the others
16 assisting you to identify where Stanford had any money, if he
17 had any money left, and then more importantly, what might be
18 evidence of large payments having gone out in the months and
19 weeks before the Receiver took over?

20 A. Yes. That's one of the first things that -- that we do
21 when we come in. We want to see the money that went out in
22 the last few months before the Receiver. We're more likely to
23 be able to get that back. So that was one of the first things
24 that -- that we did.

25 Q. All right. And, now, you told us you were with FTI for a

1 very long period of time. You've now transitioned to -- to
2 Navigant. In connection with that transition, has -- has your
3 role and your work narrowed in focus?

4 A. Well, really since I've come to -- well, PWC and then
5 Navigant, I've been involved mostly in litigation at this
6 point.

7 Q. All right. Sounds like you've been involved, you and
8 your colleagues, with a lot of work over the years. Let me
9 ask you, I assume you're not doing this for free, are you?

10 A. No. The firm will not allow us to do this for free.

11 Q. All the firms that you and your colleagues have worked
12 for--FTI, Price, Navigant--those firms charge the Receiver for
13 your time, do they not?

14 A. Yes. That and all the people that are involved in it.

15 Q. Can you help the jury understand just from a process,
16 what is the process your firm goes through in order to be paid
17 for the work that you do?

18 A. Well, all of the -- all of the people on our team have to
19 submit detailed billings that set out, you know, by person,
20 and we do tenth of minute what we were doing, the kinds of
21 tasks that we were provided -- that we were providing -- the
22 services providing, I guess.

23 Those are then given to Mr. Janvey as the Receiver. He
24 sometimes has questions. We answer those questions, and there
25 might be changes or not.

1 Then there is what is called an examiner and the
2 Securities and Exchange Commission. They both look at the
3 invoices. Again, questions come back to us, we answer, there
4 might be changes to the invoices. And then, finally, after
5 all that, the invoices go to Judge Godbey, who finally
6 approves them, and there's payment.

7 Q. All right. And with respect to the rates that the firms
8 have charged for your time, including the rate Navigant is
9 charging for your time here today, tell the jury what those
10 rates have been.

11 A. Originally my rate was \$488 an hour. Currently--I'm not
12 sure when that happened, maybe a year and a half ago--it's now
13 \$520 an hour.

14 Q. And do your firms just to get to set whatever rate they
15 want?

16 A. No. Those are negotiated.

17 Q. And who approves those?

18 A. It has to be through the receivership, same process,
19 basically Receiver, SEC.

20 Q. All right. Now, the jury needs to understand, you know,
21 what all this costs because it's -- it's not -- it's not for
22 free. Given the eight years of works, all the colleagues that
23 have been working on this, you, the tens of thousands of
24 hours, if we focus just on FTI, how much has the Court
25 approved in payments to FTI to date?

1 A. The payments to FTI to date are \$22 million.

2 Q. And are those for the fees for the work for all the
3 dozens of professionals, including yourself for the work that
4 you've done for the Receiver, on all the cases, all matters
5 related to the receivership?

6 A. Yes. That's correct.

7 Q. And then with respect to Navigant--that's more
8 recent--about how much has been approved for payment?

9 A. That's been, I believe, \$80,000 -- or, excuse me,
10 \$570,000 for all of the work that I've done since I've been
11 there for the receivership.

12 Q. All right. Now, that's a very large number for FTI.
13 Within that \$22 million, can you again kind of give us maybe
14 the top three or so categories? What kind of work has the
15 receivership had to pay for?

16 A. Well, I think the best way to break it down is maybe look
17 at what I think of as general receivership, and that would be
18 when we originally came in and had the investigation, had
19 people fanned out across the country obtaining data, different
20 things like that, as well as helping with the operations of
21 the business, because it has to be wound down. That was about
22 \$11 million of it.

23 Then there's the litigation where we provide the analyses
24 and the testimony, opinions. That's about \$8 million.

25 And then there's, as I talked about, the claims process

1 for the investors who lost money. That's been about \$3
2 million.

3 Q. And with respect to the claims process, that's something
4 that FTI continues to work on, even though you're now no
5 longer with FTI?

6 A. Yes. That remains with FTI, and I really haven't been
7 involved with that.

8 Q. And with respect to Navigant and your work on this case,
9 not all of the other receiverships, but what would have been
10 the fees related to that?

11 A. I believe we've collected about \$80,000 for this case,
12 part of the 570- I talked about before.

13 Q. Now, you mentioned just a moment ago the -- the
14 claimants, and obviously this -- that has been a -- the fact
15 that there are depositors who lost money, has that been a part
16 of your work in this case, investigating that?

17 A. No, not the claims themselves.

18 Q. Right, but investigating the losses by the depositors.

19 A. Oh, absolutely. That was really what we were asked to
20 do. That is the largest part of the investigation.

21 Q. And -- and how many depositors who still had accounts at
22 the bank have lost money?

23 A. That's 18,000 investors.

24 Q. And the approximate amount of the loss?

25 A. \$7 billion.

1 Q. Now, let's now go back just a little bit to some of the
2 testifying you've done because I think there's something else
3 you were involved in that we forgot to tell the jury about.

4 You've obviously testified in receivership litigation,
5 but was there also a proceeding brought by the Securities and
6 Exchange Commission that you had some involvement with?

7 A. Yes. The SEC filed claims against four individuals from
8 the Stanford entities for securities fraud, and I testified at
9 their trials. Three of them had been presidents of SGC, the
10 brokerage, at different points in time. That was Jason Green
11 and Jay Comeaux and Dan Bogar. Additionally, there was
12 Bernard Shaw, who was the compliance manager there.

13 So I testified in the administrative proceeding against
14 those four individuals, all of whom were convicted of
15 securities fraud.

16 Q. Now, unless we have a Stanford person and a famous
17 playwright with the identical name, Bernard Shaw, could it
18 have been Bernie Young, Bernard Young, that was --

19 A. Yes.

20 Q. -- involved in that proceeding?

21 A. Sorry about that. Yes. Bernard Young.

22 Q. Now, with -- and when you testified, were you testifying
23 for the Receiver or who hired you to give testimony in that
24 SEC proceeding?

25 A. The SEC actually retained me in that case.

1 Q. Now, in the earlier years, did you have with FTI
2 substantial involvement in working with providing information
3 to the Federal Bureau of Investigation and the Department of
4 Justice?

5 A. Yes. At the time that we were doing our investigation,
6 as we came in for the Receiver, the Department of Justice and
7 the FBI were doing their own investigations. And during that
8 time, to the extent that we had information that they didn't
9 have, we would meet with them, provide them data, provide them
10 information, tell them what we were finding. So we've worked
11 with them throughout that period of time.

12 Q. So we've talked about the work you've done, we've talked
13 about some of the materials that you've reviewed, but I want
14 to make sure we have a complete picture.

15 As part of your work for the Receiver, not only in this
16 case but generally, have you had the opportunity to review
17 Stanford internal financial records as well as financial
18 records you obtained from third parties, other banks and other
19 financial institutions?

20 A. Yes. That was all part of the investigation that we did.

21 Q. And, again, with respect to the work you have done, have
22 you had the opportunity to review internal documents, emails,
23 custodial files, financial records, and paper in electronic
24 form?

25 A. We have, tens of thousands of those.

1 Q. And in addition to the depositions that you have reviewed
2 in this case, have you had the benefit of working on,
3 reviewing depositions given in other receivership litigation?

4 A. Yes, I have.

5 Q. Now, all of this stuff we have -- we have talked about,
6 all the records, discovery, depositions, files, all of that,
7 is that the type of information that people in your field
8 forensic investigators, forensic accounting, is that the type
9 of information typically used and relied on when you're going
10 to come to court and testify?

11 A. It is. Either for this investigation or others, we have
12 a set of procedures that -- that we follow certainly, and that
13 type of information that was described is the type of
14 information that we rely upon and others in my profession
15 would rely upon based upon practice and methodologies that we
16 follow in the procession.

17 Q. Now, we talked about the fact that you're a CPA. Are you
18 familiar with an organization called AICPA?

19 A. Yes. That's the American Institute of Certified Public
20 Accountant, and I belong to that.

21 Q. And does the AICPA have standards of professional conduct
22 that you're subject to that govern your work?

23 A. Oh, yes; absolutely.

24 Q. And in connection with that, is one of the standards that
25 you, someone like you doing your work, are required to obtain

1 sufficient relevant data to afford a reasonable basis for
2 conclusions or recommendations in connection with services
3 such as the testimony you're providing here under oath?

4 A. Yes. That's what the statement says, and why I've chosen
5 to accumulate so much data and information.

6 Q. And have you followed in your work in this case, in fact
7 in all the receivership cases, have you followed those
8 standards that I just read to you?

9 A. Absolutely, yes.

10 Q. And in the SEC proceeding, were you subject to this same
11 standard when you were doing the work for the Securities and
12 Exchange Commission?

13 A. Yes. In all of my work, actually.

14 Q. All right. Let's now turn and focus our attention to
15 this case and some of the important issues that we need to
16 discuss with you.

17 First, so we can understand your testimony, based on your
18 review of all of the evidence that you have described you've
19 looked at, what is your primary conclusion that you're here to
20 testify to here today?

21 A. My primary conclusion is, at the time that the Magness
22 parties took the \$88.2 million, they had information available
23 to them that had suspicious facts and circumstances, and I
24 will refer to those generally as red flags. Those red flags
25 should have led them to conclude that SIB was making false

1 statements to cover up their lie, which is their poor
2 financial position, and that they were not legitimate.

3 Q. And when you say their lie, whose lie are you talking
4 about?

5 A. I'm sorry. The SIB -- SIB's lie and the Stanford
6 entities in general.

7 Q. And then, more narrowly, with specific regard to these
8 loans, did you reach a conclusion based on your investigation
9 that you're here to testify about?

10 A. Yes.

11 Q. And what is that conclusion?

12 A. Well, I would call these loans purported loans, not real
13 loans. They've been papered as such, but they were really a
14 pretext to get the money out of the bank.

15 Q. All right. Now, you said suspicious facts and
16 circumstances. I heard you say that. Are you talking about
17 information that was just out -- out to the public that any
18 --anybody might read and find?

19 A. No. And that's an important point to distinguish. This
20 was nonpublic information that was made available to the
21 Magnesses apart from what the general investors would have
22 received.

23 Q. And -- and this nonpublic private information, is that
24 what you're here to answer questions about today, in part?

25 A. Yes.

1 Q. All right. And was there something about this nonpublic,
2 private information that had something to do with SIB's public
3 story?

4 A. It is. That private information that they received was
5 inconsistent with the public story. So it casts doubt on that
6 public story and should have led them to look at those -- the
7 suspicious facts and circumstances.

8 Q. Now, let's now talk about SIB's public story. We've had
9 a little bit of information come out, but I'd like us to
10 understand it completely.

11 Can you tell the jury just what was SIB's basic public
12 story? We may have a document to help us. So Plaintiff's
13 Exhibit 492, which is already in evidence.

14 And I guess, first, let me ask you--I got ahead of
15 myself--what is Plaintiff's Exhibit 492 that's up on the
16 screen and hopefully on your screen as well?

17 A. Not on my screen, but I can look. This is standard
18 marketing material that was given to all investors, would have
19 been given to the Magness parties when they're looking to
20 invest.

21 Q. All right. Fair to say this is basic marketing
22 literature that Stanford put out year in, year out over the
23 years?

24 A. Yes. They'd update it every year or two, but generally
25 the information was all the same.

1 Q. All right.

2 MR. SADLER: I think there's some information on
3 page 5 of this that we should go to directly. And let's grab
4 all that. That's fine right there.

5 Q. (BY MR. SADLER) So with regard -- we can all read the
6 words on the page, so my -- we see depositor security, we see
7 liquidity. From your investigation, why was this part of the
8 basic SIB sales pitch to the public?

9 A. Well, you'll hear liquidity a lot. That was very
10 important, that there was high liquidity in -- for the bank,
11 and that meant that they either had cash or they could turn
12 the investments into cash in a relatively short period of
13 time. And when we think of highly liquid, it's within a few
14 days.

15 Q. Is cash, for example, is that highly liquid?

16 A. That is highly liquid, yes.

17 Q. All right. Now, there's a mention here of a
18 well-diversified portfolio, and I think we've seen that phrase
19 multiple times. With respect, again, to their basic sales
20 pitch, why was this part of the sales pitch?

21 A. Well, that was their sales pitch that they had this
22 portfolio, and the way that they would manage it supposedly
23 was that they could manage their market risk.

24 Q. And with respect to highly marketable, is that related to
25 liquidity?

1 A. It is. When something's highly marketable, that's like
2 your Apple stock or whatever stock you might own, that you can
3 go on a public market and therefore be able to turn it into
4 cash fairly quickly.

5 Q. And you have been investigating this Stanford business
6 for years and years. My question to you is this: Depositor
7 security, liquidity, was this part of their sales pitch to
8 investors that, put your money with us and you can have access
9 to it quickly, easily, any time, because it's liquid?

10 A. Absolutely. That was an important message to their
11 potential investors.

12 Q. Let's now look at page 7. And let's focus right down
13 here. You already mentioned the word "risk."

14 A. Uh-huh.

15 Q. So, again, we can see the words on the paper. They're
16 talking about minimization of market risk. How is that part
17 of the sales pitch, an important part of your public sales
18 pitch?

19 A. It's important because when you hear that phrase --
20 you've heard it many, many times -- that well-diversified,
21 global portfolio, that's what most investment firms would say.
22 What they're trying to say is, we have that portfolio, but
23 we've been able to manage those market risks, so when the
24 market has its ups and downs, we aren't going to have that
25 same kind of -- that same kind of happening in our portfolio.

1 So they're trying to say that they don't have as much
2 risk as the market as a whole.

3 Q. All right.

4 MR. SADLER: And let's now look at page 8. And I
5 want to focus on just that top half there. I'm sorry, Mr.
6 Jarrett. I pointed to the wrong spot. These two paragraphs
7 right here, high interest rates, consistent profitability.

8 Q. (BY MR. SADLER) So -- so let's pause, and I want you to
9 help us understand. High interest rates on the one hand and
10 then consistent profitability on the other hand, again, why
11 was this part of the public sales pitch by Stanford?

12 A. Well, they were advertising to the public that they could
13 give them higher rates of return. And what they're saying is,
14 because we get these consistent high rates of return ourself
15 on our portfolio, we can pass that on to you. So they have to
16 put a message out about that consistency so that, you know,
17 they appear more safe to the investors.

18 Q. And so let me ask you. Interest rates here, is this
19 talking about rates that they offer to the depositors on the
20 CDs?

21 A. Yes. The interest rates for the CDs were what they were
22 promising to the investors.

23 Q. But if we focus on profitability, is that -- consistent
24 profitability, is that talking about the bank or is that
25 talking about something to the investors?

1 A. No. That's talking -- well, it's talking to investors,
2 but it's talking about the bank's profitability on their
3 investments, not the CD investments, their investments. So
4 it's referring to that.

5 So they're basically saying, we're going to give you high
6 rates, we're going to give you a stated guaranteed rate, but
7 we're going to have this portfolio that isn't necessarily
8 going to perform the same way.

9 Q. All right. I think we have a slide that just helps us
10 understand the rate situation, the -- the CD rate comparison
11 slide.

12 First, if you could just describe for us, this is out
13 of -- of 492. What exactly are we looking at? What -- what
14 are we looking at?

15 A. Well, first of all, starting with the chart on the left,
16 what you see is a comparison that was in their marketing
17 brochure, that the tan bars are the SIB CD rates that they
18 were then quoting to investors. The green bars are U.S. CD
19 rates. So that differential, when you look at how much higher
20 the SIB rates are, that's what they were telling them about
21 how high their rates would be. And some of these were almost
22 three times as high as what the CD rates in the U.S. would be
23 paying.

24 Q. All right.

25 MR. SADLER: And, Mr. Jarrett, are you able to

1 enlarge this? Because I can barely read it, and I bet anybody
2 behind me can't read it. That's a little bit better.

3 Q. (BY MR. SADLER) So just to be clear, when you're saying
4 the tan graph, that's the Stanford International Bank CD rate?

5 A. That's correct, yes.

6 Q. And then what people could get on average in the U.S.,
7 that's the darker color?

8 A. That's correct.

9 Q. And do we see, for example, that in -- in -- you know,
10 it's never the same, but in some years it's almost twice, some
11 years it's almost three times, and a couple of years it's
12 actually pretty close?

13 A. Yes. That's correct.

14 Q. All right.

15 MR. SADLER: Let's -- let's go back then to the
16 whole slide.

17 Q. (BY MR. SADLER) What then in this information telling us
18 on the right-hand side --

19 MR. SADLER: And, again, Mr. Jarrett, if you could
20 help us by enlarging that so maybe we can see it a little
21 better.

22 Q. (BY MR. SADLER) Tell us what we're looking at.

23 A. What this is illustrating for investors is it starts at a
24 million dollars. If you put the million dollars into the U.S.
25 banks at the rates that they have on the other chart, you will

1 have by the end of this period of time roughly \$1.5 million.

2 On the other hand, if you put it in the Stanford
3 International Bank over that same period of time, you will
4 have -- oh, gosh, it's hard --

5 Q. 2.1 million?

6 A. I think it's approximately 2.1 million. So you will have
7 \$600,000 more money over that period of time for investing in
8 SIB.

9 Q. So was part of their basic sales pitch, give your money
10 to us and you'll get more money in the end?

11 A. That's correct, yes.

12 Q. Now, again, I want to be clear. All this stuff we just
13 talked about, there was nothing private or secret. This is --
14 this is the sales pitch everybody got, wasn't it?

15 A. Yes. This is public to the investors.

16 Q. All right.

17 MR. SADLER: I think we can take that down now.

18 Q. (BY MR. SADLER) Now, part of what we just saw made me
19 want to ask you this question. We saw the higher CD rates.
20 Those rates, how are they tied to this well-diversified
21 portfolio? How are those guaranteed rates tied to a
22 well-diversified portfolio?

23 A. Well, they tie them in that what they're saying is, We
24 get you these high rates because we're able to make these
25 great investments in this well-diversified portfolio, and

1 we've been able to do that very subtly and therefore we can
2 pay you those rates.

3 The problem is, on the interest rates that they are
4 promising to the investors is a stated rate, We will pay you
5 eight percent, nine percent, whatever that might be. The
6 portfolio is subject to market risk, so you can't guarantee
7 what that's going to be. So that's inconsistent.

8 Q. And -- and I -- I don't want to misstate it, but the idea
9 is, are they offering the public a fixed guaranteed rate, but
10 somehow it's based on a portfolio that is subject to the ups
11 and downs of the market?

12 A. That's correct, yes.

13 Q. Now, you were here for Mr. Graves' testimony, I take it.
14 We've talked about that.

15 A. I was, uh-huh.

16 Q. And I believe you heard Mr. Graves say, Well, looking at
17 these rates, there's -- you know, there's nothing alarming or
18 red flag about that. Did you hear that testimony?

19 A. I did, yes.

20 Q. Can you explain to the jury why just focusing on the
21 difference in CD rates kind of misses the point?

22 A. Well, you know, I think it misses the point because it's
23 not just the rate; it's the fact that they are saying, We'll
24 get you that high rate with low risk and liquidity. Those
25 things are like oil and water. They don't mix. Usually if

1 you want a higher rate of return, we all know you get higher
2 risk. So it's -- it's those combinations of those things
3 that -- that are problematic.

4 Additionally, this consistent profitability that's going
5 to allow us to pay those kinds of rates when it's subject to
6 market risk is another problem that you have to take into
7 consideration when you're looking at the rates that they're
8 paying.

9 Q. So would it be fair to say that offering that, high
10 rates, guaranteed, but based on a market that can go up and
11 down, that kind of raises a question in your mind, doesn't it?

12 MR. PETRIE: Objection. Leading.

13 Q. (BY MR. SADLER) Does it raise a question in your mind?

14 A. It does raise a question, yes.

15 Q. And would you agree there -- there actually might be a
16 legitimate answer to that question?

17 A. There might be. To me, that's a little bit implausible.
18 I know they're saying their minimizing it, but that's hard to
19 do on a guaranteed basis. So certainly that seems implausible
20 to me.

21 Q. All right. Well, let's now talk about some other
22 information that may raise a question to which there may be an
23 answer.

24 You mentioned consistent profitability. And, again,
25 we're talking about what the bank is telling the world are its

1 profits. Is that what we're talking about?

2 A. That's correct, yes.

3 Q. Okay. Help the jury understand what is significant about
4 this consistent profitability component as you found from your
5 investigation?

6 A. Well, I think it's one thing to just think, oh, they're
7 pretty consistent over time. I think it's stark how
8 consistent they told investors they could be.

9 Just to give you an example, from, let's see, 1997 to
10 2002, from that period of time SIB told its investors that,
11 for each year, they had returns ranging from 14 to 14.9
12 percent. So in each year, there was no more difference less
13 than one percent. The market at that time, same period of
14 time, had a swing of down negative 23 percent to up of 30
15 percent.

16 So they have a 53 percent swing in the market, yet
17 Stanford's telling people, we can do that over that period of
18 time and stay within less than one percent, and that same kind
19 of dynamic is true in the next five years as well.

20 Q. All right. So you were here for Mr. Bell's testimony.
21 Do you recall some questions were put to Mr. Bell, the
22 financial advisor, to the financial folks, the Merrill Lynch
23 guy, asking him what he thought of these consistent year-in
24 year-out performance rates. Do you recall that testimony?

25 A. I do. He did testify about that.

1 Q. And I believe the record will reflect that he said that
2 he was skeptical of that and he found it highly improbable.
3 And my question to you is, do you agree with that?

4 A. Yes. I think what he was referring to was that in two
5 years they were exactly the same, and he said that that was,
6 you know, highly improbable. I think that's almost
7 impossible. So, yes, I do agree with that.

8 Q. So to be sure we understand, are you saying what Stanford
9 was reporting is he was basically a flat straight-line,
10 year-in, year-out, doing basically the same amount of profit
11 at the time when the market was having these big up and down
12 swings?

13 MR. PETRIE: Objection. Leading.

14 THE COURT: Sustained.

15 Q. (BY MR. SADLER) Could you describe for us visually what
16 that depicts, the steady profitability versus what the market
17 was doing?

18 A. If you looked at that on a graph, what you would see is
19 this steady line, I said, between 14 to 14.9 percent. So it
20 would barely move. The market, as I said, would go from
21 negative 23 to a high of 30. So you would have those kinds of
22 movements in the market, yet very steady for SIB.

23 Q. All right. Now, to be clear, from your investigation
24 what you're describing for us this is, again -- is this part
25 of the public information, part of public story that's put out

1 by Stanford?

2 A. It is part of the public story, the -- the rates and that
3 they -- and the deposit rates, yes.

4 Q. All right. In the course of your investigation on -- on
5 this case, did you find evidence, for example, meeting minutes
6 of a phone call that the bank president had with the Magness
7 folks where he was called--he, the bank president--was called
8 upon to explain just exactly how the bank was able to make
9 money in the way they were telling everybody they were?

10 A. Yes. There were meeting minutes that reflected what Mr.
11 Tolentino, the bank president, told them at that meeting.

12 Q. All right. Now, we've seen this document before, but
13 I've got some -- some different questions for you about it.

14 MR. SADLER: Let's pull up Plaintiff's Exhibit 62.

15 Q. (BY MR. SADLER) And just to be sure we know what we're
16 talking about, these are the minutes of the March 6th Mango
17 Five meeting. Have you reviewed these as part of the large
18 volume of material you reviewed in this case?

19 A. Yes, I have.

20 Q. And is this the record that you found concerning Mr.
21 Tolentino's presentation to the Magness folks about how the
22 bank was able to achieve what they told the public it was
23 achieving?

24 A. Yes. This is a record of what he told them and the
25 minutes reflect that.

1 Q. All right. So I want to focus on the key terms. I think
2 we have a slide that just pulls out for us the key terms.

3 And you were here for Mr. Magness' testimony, were you
4 not?

5 A. I was, yes.

6 Q. And I think I showed this to Mr. Magness, but I want to
7 focus on this with you.

8 Starting with Swiss bank model, how is it that the bank
9 president, describing what his bank does to achieve these
10 steady returns in this up-and-down market, how is it that
11 Swiss bank model makes any financial sense, if it does?

12 A. Well, it really doesn't make any financial sense.
13 It's -- it's not a term that you see used. And, in fact, we
14 heard testimony from several individuals that said they didn't
15 understand what it meant, either.

16 Q. In any -- and you have looked at a lot of materials. In
17 any of Stanford's published information to investors, the
18 marketing materials that went out to all investors, did you
19 see anywhere where Stanford International Bank ever described
20 itself as following a Swiss bank model, Swiss bank program,
21 Swiss bank anything?

22 A. No. I haven't seen anything in the public information
23 about that.

24 Q. All right. Now let's talk about the next two together,
25 because one of the things Mr. Tolentino has reported to have

1 said deals with this portfolio of investments.

2 And would you agree, we do see in the published
3 literature references to diversified portfolio of investments.

4 A. Yes. You see this often in their material.

5 Q. But now let me ask you about this description of leverage
6 the portfolio by a factor of 15 percent. First of all, let's
7 get clear what leverage is.

8 Tell the jury in this context, if you're talking about
9 leveraging a portfolio, what are you telling people that
10 you're doing?

11 A. Leverage is really debt. So what you're -- what you're
12 saying is, I'm going to take on debt for up to 15 percent of
13 this portfolio and I'll take on debt at whatever percentage,
14 three percent, and I will use that to make some other -- some
15 higher percentage. It's rather like what Mr. Magness himself
16 described as his -- his arbitrage and what he does. That's
17 what you refer to.

18 But there's no mention of that in any of the literature,
19 SIB's literature, not on their balance sheet, and certainly
20 they say quite the opposite in the literature as a whole.

21 Q. Let me ask you about that just to be sure we understand.

22 If you're talking about leveraging a portfolio, just in
23 general, are you talking about I'm going -- I have a portfolio
24 and I am going to borrow money against that portfolio and then
25 take that borrowed money and go invest it somewhere else,

1 hoping make a higher return than what I'm having to pay to
2 borrow it?

3 A. No. You're talking about leverage on that portfolio, to
4 create for that portfolio.

5 Q. Right. And is it borrowing against the portfolio,
6 creating the debt? Is that what we're talking about?

7 A. Yes.

8 Q. And if we're talking about a factor of 15 percent, now,
9 in the context -- you've reviewed the memo, what -- and you
10 reviewed the other documents, what is SIB telling all the
11 investing public in this time frame--we're talking about March
12 2008--what are they telling people publicly is the size of
13 their investment portfolio?

14 A. At this time, it's approximately \$8 billion. So 15
15 percent of that would be about \$1.2 billion worth of debt.

16 Q. So from your point of view as a financial professional
17 and as an investigator, did you find any evidence in any of
18 SIB's public statements, its financial statements it sent out
19 to the FAs, to the investors, any record that the bank was
20 borrowing up to one point something billion dollars and then
21 using that money to go invest somewhere else?

22 A. No, you don't see that. And from my perspective, an
23 accounting perspective, you would see that on the balance
24 sheet. They would have to reflect that debt. If they're
25 going to borrow against their portfolio, which is an asset,

1 they have to reflect that debt on their financial statements.
2 They did provide balance sheet information in the public
3 literature, but there was no reflection of any debt.

4 Interesting, they actually are very proud of the fact
5 that they don't have that debt. They say, you know, we're not
6 a general commercial bank, we're not going to make loans. The
7 only loans that they said -- the bank says it will make is to
8 investors up to 80 percent of the CD values that they have.

9 Q. All right. Let's talk about that, because I think we've
10 got two different concepts. In the literature that you saw
11 where the bank says, we don't make commercial loans, we only
12 loan to depositors, is that talking about the Stanford BANK
13 lending money to other people who are borrowing from the bank?
14 Is that the concept that's being discussed?

15 A. Yes.

16 Q. Now, that's not the same concept here, is it?

17 A. No. It's different.

18 Q. Is the concept here Stanford, as the bank itself, is
19 going somewhere and borrowing money from somebody else?

20 A. Yes. That would be outside debt that they would have to
21 get.

22 Q. And if Stanford bank was doing what Mr. Tolentino said to
23 the Magness folks they were doing up to 15 percent, would
24 you -- what kind of financial institution would be providing
25 up to a billion dollars in borrowing money to the Stanford

1 bank?

2 MR. PETRIE: Objection. Foundation.

3 THE COURT: Overruled.

4 THE WITNESS: It would have to be a large commercial
5 bank.

6 Q. (BY MR. SADLER) Now, let me go to this next one
7 here--hedge fund.

8 First of all, let me ask you, is there something of
9 significance between the idea of saying you're operating like
10 a hedge fund but we're also very liquid?

11 A. Yes. Those two things are in opposition of each other.
12 A hedge fund is generally considered where you put your money
13 in and it is a long-term investment. Oftentimes, you're
14 locked in. So it is not very liquid and, in fact, it
15 generally has higher risk to it.

16 Q. Now, with respect, again, to focusing on hedge fund, in
17 all of your review of all the marketing materials that went
18 out to investors, did Stanford International Bank ever
19 describe itself, sell itself, brag about itself, that it was a
20 hedge fund?

21 A. No. And, in fact, we heard Mr. Espy say that, as a
22 financial advisor, they were told not to say anything about
23 comparing the bank to a hedge fund, for good reason. As I
24 said, it's riskier and not very liquid, which would be, again,
25 inconsistent with the public information.

1 Q. And so to be clear, whether we're talking about Swiss
2 bank model, borrowing money to go invest to the tune of 15
3 percent, we're operating like a hedge fund, were any of those,
4 any of those, part of the public pitch to the other investors
5 who were in the bank?

6 A. No, they were not.

7 Q. Well, let me ask you this about these terms. If Stanford
8 is telling the public, We are able to pay you a guaranteed
9 high rate and we are able to achieve consistent, nice, flat,
10 steady profitability while the rest of the market goes
11 whichever way it goes, from a financial perspective, how does
12 any of that explain that?

13 A. It doesn't explain it.

14 Q. Does it make any sense from a financial perspective to
15 you?

16 A. No. There's -- a lot of inconsistency that is within
17 this. As I said, very liquid and hedge fund, those do not go
18 together. Swiss bank model means nothing. This really told
19 you very little and certainly nothing that would explain those
20 kinds of stories.

21 Q. So we have here in front of us an example of things that
22 the Magness defendants are being told in a private phone call
23 with the bank president in contrast to what the public's being
24 told.

25 My question to you is, did you find yet another example

1 of the Magness defendants being told something privately that
2 was different from Stanford's public story?

3 A. I did, yes. I noted that Mr. Magness testified about the
4 fact that he had gotten some comfort about SIB and its
5 security because the bank president, I believe Mr. Tolentino,
6 had indicated that it was overseeing that the bank, SIB, was
7 overseen by the SEC. And, in fact, when he was in Antigua in
8 one of his trips, he saw two individuals he believed to be
9 from the SEC.

10 What's in the public literature, however, is that they're
11 very clear that the SIB is only regulated by the regulatory
12 authority of Antigua and Barbuda. And so that is very
13 different. And what we found in our investigation, in fact,
14 is that Mr. Stanford placed that bank in Antigua to keep it
15 outside of the eyes of the SEC regulators, and -- and for good
16 reason.

17 Q. Well -- and, in fact, you've since had the opportunity to
18 review an enormous amount of material related to Stanford and
19 the goings-on there. In your entire eight years of work in
20 the receivership, have you ever come across any piece of
21 evidence suggesting that at any point in time the SEC had
22 investigators, regulators, anybody down there checking out
23 that bank?

24 A. No. In fact, that was exactly what they did not want,
25 and I am very certain that if they had regulators there, we

1 would have seen some mention of it.

2 Q. All right. Let me now ask you to go back to your
3 experience as a forensic investigator and the kinds of cases
4 you worked on, the kinds of circumstances that you have seen.

5 Have you seen examples in your investigative work where
6 you go in and you're presented with conflicting stories: You
7 have a document that says this or somebody's told you that or
8 maybe two documents conflict with each other? Have you run
9 across that kind of circumstance?

10 A. Yes. Often, actually.

11 Q. And sometimes is there a legitimate explanation for why
12 this document says this, but, you know, Fred told me that, or
13 some kind of conflict? Is there sometimes a legitimate
14 explanation for that?

15 A. Sometimes there is. Oftentimes, there's not because they
16 just haven't gotten stories straight, or whatever reason. But
17 there can be these reconciling kinds of differences.

18 Q. Okay. Well, then can you help us understand whether this
19 is different? Is there some logical, legitimate explanation
20 that would reconcile the difference with this story, which is
21 we're a Swiss bank model, we borrow money to make money, we
22 are very liquid but a hedge fund, and we don't see any of that
23 in Stanford's public literature?

24 A. No. I mean, those are just very different items, and
25 there's no reconciliation between the two, certainly none that

1 I've seen and no explanation that has been provided in that
2 regard.

3 Q. And, finally, on this document, and we just have the
4 portion of it here, but you've reviewed the whole memo, have
5 you not?

6 A. Yes, I have.

7 Q. In the whole memo, did you see any statements attributed
8 to Mr. Tolentino that you would think was a legitimate
9 explanation for the difference between the public story and
10 this stuff he was explaining?

11 A. No. There's nothing in the rest of the documents that I
12 think would explain that.

13 MR. SADLER: Your Honor, we are about to change
14 topics. Would this be an appropriate time for the lunch
15 break?

16 THE COURT: Sure.

17 All right. Time for lunch. Let's see you-all back at
18 1:30. 1:30.

19 (Whereupon, the jury left the courtroom.)

20 THE COURT: Do you-all know how much of Sutton gets
21 charged against the Magness parties?

22 MR. SADLER: We have those numbers. They don't
23 include, of course, the errata.

24 THE COURT: Right.

25 MR. SADLER: But the numbers that we have, nine

1 minutes for the Magness defendants; and then two hours, 14
2 minutes, or 134 minutes, for the Receiver.

3 THE COURT: Okay.

4 MR. PETRIE: Well, excuse me, Your Honor. Before we
5 part company, the errata shouldn't be charged against the
6 Magness parties. That's part of the deposition testimony.
7 It's inclusive. It's not a counterdesignation. It's part of
8 the testimony. It would be no different than if we had a
9 transcript. You start out by having the version as corrected,
10 and then opposing counsel is allowed to comment on the change.

11 MR. SADLER: It was their idea, Your Honor, to do
12 that.

13 THE COURT: I don't want to set a precedent, but I
14 am just going to eat that seven minutes instead of argue about
15 it.

16 MR. SADLER: I understand.

17 THE COURT: And I show Magness using 198 on Friday
18 for a total of 955, the Receiver using 162 on Friday for a
19 total of 603.

20 MR. SADLER: Does Your Honor -- have you noted what
21 time remaining or --

22 THE COURT: Well, it's 1,050 minus whatever that
23 number was.

24 Anything else?

25 MR. SADLER: No, sir.

1 MR. PETRIE: No. Thank you.

2 THE COURT: All right. We'll see you at 1:30.

3 (Lunch recess.)

4 THE COURT: All set?

5 MR. SADLER: Yes, sir.

6 MR. PETRIE: Yes, sir.

7 THE COURT: How much more do you think?

8 MR. SADLER: I'll probably go until a few minutes
9 past 3:00, somewhere in that time frame.

10 THE COURT: Then I'll wait to break for lunch until
11 you finish unless it looks like you're going considerably
12 past.

13 MR. SADLER: The afternoon break, Your Honor?

14 THE COURT: Yes.

15 MR. SADLER: Okay.

16 (Whereupon, the jury entered the courtroom.)

17 THE COURT: Be seated.

18 Good afternoon. We're going to try and finish the direct
19 of Ms. Van Tassel before we take the afternoon break, so it
20 may run a little past 3:00. If it gets too much past that, we
21 will go ahead and take a break anyway. There's nothing magic
22 about that time, but that's what we're going to aim for.

23 So the Receiver may proceed.

24 MR. SADLER: Thank you, Your Honor.

25 Q. (BY MR. SADLER) Ms. Van Tassel, I want to switch topics.

1 We were just talking about the difference between the private
2 story the Magness defendants got and the public story. I want
3 to switch to a different topic, and I want to talk with you a
4 little bit about the basic features of the Stanford financial
5 fraud.

6 And so can you tell the jury from your perspective, all
7 the investigation that you have done, if we could kind of
8 distill it down to maybe three points or so, what are the
9 basic features of Stanford's fraud as it was perpetrated?

10 A. Well, to bring it down to three, I guess I would say,
11 first of all, is the primary and almost only source of funds
12 for SIB and the other Stanford entities was the sale of these
13 high rate certificates of deposit by SIB.

14 As the money came in from those investors, it was then
15 diverted to waste and fraud, continuing the Ponzi scheme.
16 Some went to Mr. Stanford, so that created the big hole in the
17 balance sheet.

18 So what that required from SIB's part was to cover up the
19 fact that they had this problem with their balance sheet with
20 false claims of profitability, that their balance sheet was
21 strong, that they had a great deal of liquidity.

22 I think that's the three basic points to make.

23 Q. And -- and to -- to illustrate it for us, this concept of
24 a hole in the balance sheet, problem in the balance sheet, how
25 could you illustrate that for us? What does that mean?

1 A. Well, if -- if you look at the fact that we have the
2 assets declining over time, they're going out to other
3 entities or to Mr. Stanford, being wasted in various ways, so
4 those assets are no longer there, but your liabilities stay.
5 So, you know, you continue to have \$8 billion of liabilities
6 while the rest of the money is going out of the business.

7 Q. And in talking just for a moment, to digress about the
8 liabilities, the 8 billion, what exactly is it when you say
9 there was 8 billion in liabilities on the bank's balance
10 sheet?

11 A. Well, from the bank's perspective, when they take their
12 money in from an investor, it's not an investment to them,
13 they owe the money back to the investor. So they have an
14 asset that comes in of cash, and they have a liability.

15 What they're supposed to be doing is making investments
16 with that cash that's coming in. That wasn't happening. As I
17 said, it gets diverted so that liability to the CD holders
18 continues but the money has been diverted.

19 Q. If liabilities are up here (indicating), are assets down
20 here (indicating)?

21 A. Yes.

22 Q. And in the middle is the hole?

23 A. The middle is the hole.

24 Q. So with respect to what Stanford was reporting to the
25 world about his balance sheet, was he reporting that he had

1 this big hole in his balance sheet?

2 A. Of course not. Over time they continually talked about
3 and -- and presented, as you saw, in marketing materials and
4 in their annual reports, they would continue to present this
5 picture that they were very strong, profitable, healthy, that
6 they had high liquidity, which they talk about in their
7 materials. And so they used that and the fake assets that
8 they created to cover what they were actually doing.

9 Q. All right. And with respect to the amount that was
10 diverted that created this hole -- and I think we have a slide
11 that will help us here.

12 MR. SADLER: If we will put that up.

13 Q. (BY MR. SADLER) What are these financial figures we're
14 looking at here, Ms. Van Tassel?

15 A. What you're seeing here in front of you is the amount per
16 year from 2000 to 2008 that was diverted, that is, the
17 investor money taken and used elsewhere. So over the
18 eight-year period of time, we had just over \$2.2 billion that
19 was diverted.

20 Q. And during this time -- obviously this is going on behind
21 the scenes, but during this time, what is Stanford saying
22 publicly about what his balance sheet looks like?

23 A. They continued to say publicly throughout this period of
24 time that they're continuing to make money, they're
25 increasing -- their assets are increasing along with their

1 liabilities, and that they're very healthy and very strong.

2 Q. And what is the significance of the fact that this amount
3 generally was growing year after year over time?

4 A. Well, that continually growing amount shows that the hole
5 was growing bigger and bigger and bigger every year.

6 Q. In terms of continuing to run a fraud like this, how
7 important is it to keep quiet about, cover up the fact that
8 you have a balance sheet problem?

9 A. It's very important. I mean, what they have to do is be
10 presenting to the public that everything's fine, they create
11 literature that shows that they're doing well, but inside
12 there's something different happening. And that's kind of the
13 don't-let-them-see-you-sweat kind of mentality. Behind the
14 scenes something is happening that isn't -- that is not good,
15 but to the public they're presenting a different persona.

16 Q. And -- and with this -- this large hole in -- in the
17 balance sheet that you talked about, well, during this time
18 frame, where is Stanford getting the money to do things like
19 pay people redemptions when they just want to cash out or pay
20 them interest or -- or give people money for loans? Where --
21 where is he getting that money?

22 A. The way it works is that -- in -- in the scheme, was that
23 you had to have this ever-increasing number of people coming
24 in as investors. So what would happen is the new money coming
25 in from a new investor would pay off somebody requesting a

1 redemption or a loan, whatever that might be.

2 So the new investor money has to keep growing to pay off
3 the existing investors so that they can keep that facade that
4 everything is fine.

5 Q. All right.

6 MR. SADLER: We're -- we're through with this slide,
7 Mr. Jarrett.

8 Q. (BY MR. SADLER) Okay. So that's the basic features of
9 the Stanford fraud.

10 If we now focus on the important period of time in this
11 case, October 2008, when these loans came out, what was going
12 on inside Stanford that was changing the way it had been
13 running for years?

14 A. Well, what happened is in October of 2008, what you start
15 to have is there are more people, entities, wanting to take
16 their money out than there are new investors coming in. So
17 what you have is this point in time where it's harder for
18 Stanford to continue the scheme. And that's what I call the
19 tipping point, which is the point at which the investors
20 coming in are far less than the investors that want to take
21 out money in redemptions, interest, loans, and all the money
22 that it requires to continue this Ponzi scheme.

23 Q. Well -- so a couple of questions about that. This
24 tipping point that you're talking about, did -- did new
25 investors just stop coming in at this tipping point?

1 A. No. It was gradual over time. In fact, up until the day
2 before the receivership, there were a couple of investors
3 still putting their money in.

4 So people are continuing to look at the public
5 information and put their money into the bank, but it's just a
6 lot -- there's a lot less of those than the people who are
7 choosing to take their money out.

8 Q. And then you mentioned having trouble keeping up not only
9 with making payments to investors for redemptions, loans, and
10 interest, you mentioned expenses.

11 From your investigation in this time period, how much
12 money was Stanford spending just on sort of keeping the lights
13 on, paying the rent, salaries, that kind of thing?

14 A. Their expenses were about \$30 million per month.

15 Q. All right. So these things, this tipping point you
16 talked about, did that have an impact on just the amount of
17 cash that the bank had available on its balance sheet to pay
18 redemptions, pay interest, pay loans, pay these \$30 million a
19 month in expenses, did this tipping point have an effect on
20 the cash?

21 A. It did. We've seen that there has been a depletion of
22 cash during of October of 2008.

23 Q. All right. And as part of your investigation, did you
24 look at the -- not only the Stanford records, but the records
25 of the banks where Stanford was keeping the cash that he had

1 on hand?

2 A. Yes. That's correct. We received actually directly from
3 the bank information about what was happening in the accounts
4 for SIB.

5 MR. SADLER: And I think we may have a slide to help
6 us, the declining balances slide, Mr. Jarrett, if you could
7 put that up.

8 Q. (BY MR. SADLER) So, Ms. Van Tassel, just describe for us
9 what we have depicted here. What is the information we're
10 looking at?

11 A. Well, what you can see is, during the month of October,
12 we have this steep decline in the amount of cash. This is the
13 net amount. This is net of money coming in and money going
14 out. So throughout this period of time there's this continual
15 and, I would say, precipitous dip in the amount of cash over
16 this period of time, but, meanwhile, their assets stay the
17 same. So that's, again, part of the hole in the balance
18 sheet.

19 Q. So I want to be clear. During this time, and we've just
20 illustrated the month of October, so tell us, since it needs
21 to appear on the record, what did Stanford start out with in
22 terms of cash on hand to take care of interest, loans,
23 redemption, paying expenses, what did he start out?

24 A. Well, they started out with approximately \$411 million.
25 Over the month, it decreased by 85 percent to the point at the

1 end, they were only at about \$65 million of cash left at the
2 end of the month, October 31st, 2008.

3 Q. And you mentioned net amount, and I want to be sure that
4 we're clear about this. So during this period of time is it
5 correct that money is coming in to the Stanford fraud, it's
6 just not coming in as fast as money that's going out?

7 A. That's right. As I said, money continued to come in. It
8 was just at a much slower space than the money that was going
9 out. So these are net amounts for each day.

10 Q. And if -- whether we're focusing on what he started the
11 month with, \$411 million, or ended up the month with, \$65
12 million, in this time frame how did this amount of cash
13 compare to what he owed depositors, that is, the liabilities
14 on the balance sheet?

15 A. At this point they owed about \$8 billion to depositors.

16 Q. And just so we're not being incomplete, if we're just
17 focusing on October, because that's when the loans were taken
18 out, but if we could extend this graph out into November and
19 December into January, how does it change, if it does?

20 A. Over that period of time, it just continued to decline to
21 the point where they basically ran out of cash, and that's
22 when the fraud was exposed.

23 Q. At about the point that they ran out of cash, did the
24 bank make an announcement that they were stopping redemptions,
25 no more redemptions?

1 A. Yes. That happened later in 2009.

2 Q. And from your investigation, approximately how many days
3 from that time to when the government filed a lawsuit and shut
4 it all down?

5 A. I think just a couple of weeks, if that much.

6 Q. And to be clear, during this specific period of time,
7 October 2008, what was Stanford telling the public about the
8 status of his balance sheet at his bank?

9 A. They continued through this time through various
10 communications to put out information showing that they were
11 profitable; that they had been -- they were a strong bank;
12 that although they might be affected a little bit by the
13 market, not much at all. And so they're basically just saying
14 everything is the same as it's been throughout the period of
15 time.

16 Q. And you've talked about the liabilities. What was
17 Stanford reporting in this time frame concerning the assets he
18 claimed to have in his investment portfolio with the bank?

19 A. The investment portfolio at this time would have been
20 about 8.1, \$8.2 million. So they always had it just above
21 what the depositor liability was.

22 Q. And -- and I may have misheard. Is that million or
23 billion?

24 A. Billions. I'm sorry. I slip a decimal sometimes.

25 Q. So to be clear in this time frame, talking about the

1 public literature, talking about liabilities on the one hand
2 and assets in the form of the bank's investment portfolio, is
3 Mr. Stanford telling the public he's got a balance sheet
4 problem or a hole on his balance sheet?

5 A. No. Not to the public, he's not.

6 Q. All right.

7 MR. SADLER: We're through with this chart, Mr.
8 Jarrett.

9 Let's now move on to the Magness defendants' CD
10 investments, and I think we have a slide that just gets all
11 the information up there that we need.

12 Q. (BY MR. SADLER) And, Ms. Van Tassel, again, so that the
13 record for us will be clear, if -- if you would just tell us
14 and confirm that what the Magness defendants invested was \$79
15 million overall. Is that correct?

16 A. That's correct, yes.

17 Q. And then we have a total of, and tell us what the total
18 is.

19 A. The total, with the interest, was \$102.6 million as of
20 October 1st of 2008.

21 Q. And so in this time frame, we're talking about 2007,
22 2008, was the Magness defendants, were they the largest U.S.
23 investor in the Stanford CD program?

24 A. They were. They were -- the 79 million was the highest
25 amount of deposits for CDs for an investor.

1 Q. And this accrued interest -- we're going to come back to
2 that, but I -- I just want you to explain it now. We'll come
3 back to it again in a minute. But what is meant by accrued
4 interest of 23.6 million?

5 A. Well, the investors could decide over time, they could
6 elect to take the interest out as they went and use that, or
7 they could do what I consider rolling it over, or I think Mr.
8 Magness referred to as letting the interest ride, and keep it
9 in the account. So this is purported interest that's been
10 accrued over the period of time, which totals about \$24
11 million by October 1st of 2008.

12 Q. Now, I notice that you -- you used the term "purported."
13 That's the same term I heard you use with respect to these
14 loans. As a forensic accounting investigator, what -- what do
15 you mean by calling that purported interest?

16 A. I call it purported because the way they should have been
17 able to pay, the bank should have been able to pay, interest
18 would have been by these returns that they were supposed to
19 make on their portfolio. Because they didn't invest the money
20 and there were no returns, this is really fake interest. It's
21 not real interest.

22 Q. Just exists on paper?

23 A. It does, yes.

24 Q. All right. Well, let's stay with the CD program for just
25 a minute because there's a couple of questions I think we need

1 to clear up. There's been a lot of testimony about taking
2 loans against the CDs, and I want to ask you about that right
3 now.

4 So if we're talking about, as of October 1, 2008, if what
5 Mr. Magness wanted to do, for whatever reason, is just go to
6 the bank and say, I want to borrow the maximum amount I can
7 borrow under the bank's rules against my CDs, how much could
8 he borrow?

9 A. With 102.6 million, he could borrow just over 82 million.

10 Q. Okay. And from your investigation, looking at how the
11 bank handled the loans and the rules about it and the program,
12 was there any requirement for Mr. Magness or any depositor to
13 fill out an application and get a credit check or any kind of
14 approval process to get such a loan?

15 A. No. They had to fill out some forms to tell the bank
16 they wanted to do it, but, no, no kind of approval process as
17 far as credit or anything like that. The CDs were to be the
18 collateral on the loan.

19 Q. And there was also some testimony about that somehow it
20 was the bank's prerogative to -- to either make a loan or not
21 make a loan. What is your conclusion about that?

22 A. I don't think that's true. When I look at the marketing
23 literature, what they were telling their investors, the
24 information available, basically they could make a request of
25 a loan. The bank did ask them to give them some paperwork to

1 get the loan accomplished just so they had records of it, and
2 then they had the opportunity to take up to 80 percent of the
3 CD value that they had at that time.

4 Q. Just for the asking?

5 A. Yes.

6 Q. Now, let's talk about redemptions. Did the bank -- in
7 this time frame, did the bank allow what might be called an
8 early redemption? That is, somebody has a CD that may not
9 mature for another 6 to 12 months, but they come in and say, I
10 want to pay the penalties and redeem. Did -- did the bank
11 allow that?

12 A. Yes, it did. Oftentimes, they would have people come in.
13 Sometimes there were penalties. There were penalties that the
14 people, investors, would know about. Sometimes they had those
15 penalties, and sometimes they did not. But they certainly
16 offered early withdrawal as needed.

17 Q. And when you say sometimes they would not have such
18 penalties, what -- what circumstance are you talking about?

19 A. They could negotiate those with the investors. There's
20 no set criteria, but we know -- I mean, for instance, I think
21 Ms. Dokken said, I don't think she had a penalty when she had
22 her withdrawal, and I know that was early. So it really
23 depended upon the circumstances and they -- they could make
24 their request, and then that could be negotiated.

25 Q. And I believe there was some testimony earlier in the

1 case, please confirm you heard it, that the penalty for early
2 withdrawal was in the nature of three months' interest. Is --
3 is that accurate?

4 A. That's -- that's true for most of the CDs. I know Mr.
5 Magness' CDs, that was true. It was three months. And that
6 was true for most of the CDs.

7 Q. Let's now just take a step back and talk about the sales
8 pitch, the public sales pitch.

9 Was it part of the liquidity depositor sales pitch that
10 if you needed your money, the bank was telling people you can
11 get it quickly, and you can get it quickly either in the form
12 of an 80 percent loan or you can early redeem. Was that part
13 of the sales pitch?

14 A. That information, yes, was given publicly to the
15 investors.

16 MR. SADLER: All right. We can take that down.

17 Q. (BY MR. SADLER) All right. There's been a fair amount
18 of testimony in the case about how this whole thing started in
19 terms of the Magness defendants going to the bank and asking
20 for money in any form, whether redemption or loan, in October
21 of 2008, and I want to talk to you about that subject.

22 So from your investigation, is the sequence of events --
23 we're going to talk about the details, but my question is, is
24 the sequence of events, as you understand it from your
25 investigation, the first thing that happens is there was a

1 request for redemption that is refused and then the discussion
2 turns to loans? Is that the sequence as you found it in your
3 investigation?

4 MR. PETRIE: Objection. Leading.

5 THE COURT: Overruled.

6 THE WITNESS: Yes. That is the sequence of events.
7 There's a variety of different pieces of evidence that reflect
8 that.

9 Q. (BY MR. SADLER) Now, as of the time that the Magness
10 defendants first go to the bank to request a redemption, had
11 the phone conversation, the private phone conversation with
12 Mr. Tolentino where he talked about Swiss model and hedge
13 fund, had that already happened?

14 A. Yes. Those -- that meeting was in March of 2008, and
15 we're here in October of 2008 when we're talking about the
16 request for redemption.

17 Q. And, in fact -- and I think we have a document that may
18 help us with this, but if we're talking about in the lead-up
19 to the fall of 2008, was the bank putting out published
20 statements telling people things like, we're having a record
21 year, we've got thousands of new depositors coming in, and
22 everything's going great?

23 A. Yes. That was something it would do regularly, and it
24 certainly happened during that period in 2008.

25 Q. And -- and if we're talking about that public statement,

1 everything's great, we're going fine, and then the private
2 phone call that the Magness defendants had, focusing on those
3 two events, were those two events significant to you in the
4 conclusion you've already shared with us in this case, those
5 two events? Were they significant?

6 A. Yes, they were.

7 Q. Now then, do you understand that there is a dispute in
8 this case about the circumstances under which the Magness
9 defendants first went to the bank to request a redemption? Do
10 you understand there's two different stories about that?

11 A. Yes, I do think there are two different stories.

12 Q. And as part of looking into all the facts and
13 circumstances of -- of the loans, the redemptions, what was
14 going on in the bank in October 2008, is that one of the
15 issues you examined?

16 A. I have, yes.

17 Q. And did you hear testimony during this trial that was
18 consistent with what you found in your investigation that shed
19 light on why the Magness defendants really did go to the bank
20 in the first place to ask for money in the form of a
21 redemption?

22 A. Yes. That testimony came from Ms. Dokken.

23 Q. All right. And is it your understanding--we're going to
24 look at Ms. Dokken's testimony, but I just need to know--is it
25 your understanding that the story from the Magness defendants

1 is they went to get a redemption because they needed money to
2 pay margin calls?

3 A. Yes. I understand that's their story.

4 Q. Now, with respect to the testimony from Ms. Dokken, what
5 did she say was the reason the Magness defendants first needed
6 to go to the bank to try to redeem to get interest that had
7 been accrued, the \$24 million?

8 A. In her testimony, she referred to the fact that what she
9 needed at that time was, in addition to what was happening on
10 the margin side, there were all kinds of expenses that Mr.
11 Magness had. She said -- she referred to the movie, I think
12 the cattle ranching, and capital requirements on Fortrust. So
13 those were separate and aside from the margin calls and
14 expenses that she referred to that needed to be covered, and
15 that's why she requested to Mr. Magness that he ask for the
16 redemption of the interest.

17 Q. All right. I believe we have -- and it's Plaintiff's
18 Exhibit 73.

19 MR. SADLER: Let's pull that up.

20 Q. (BY MR. SADLER) And these are the minutes from the Mango
21 meeting October 1, 2008. Are you able to see those on your
22 screen?

23 A. I can, yes.

24 Q. And if we're talking about October 1, 2008, based on your
25 investigation, is this before there is any request for a

1 redemption, before any discussion about loans?

2 A. This is before the request for redemption or the loans
3 are made.

4 Q. Okay. And, again, as I said, there are two stories.
5 They went to get it for margin calls, and then there's another
6 story we're going to visit about in a minute.

7 Is there information in this document, this document,
8 that was significant to you on this issue of why did they go
9 to the bank in the first place to try to get money out in
10 October 2008?

11 A. Yes. There's a couple of pieces of information I think
12 that are important to that analysis.

13 Q. Well, let's look at paragraph 2, because I think this is
14 a paragraph that contains some information about margin calls.
15 And it's been reviewed briefly, but I want to ask you, because
16 you're the investigator testifying, on the subject, on the
17 question of, did they go to the bank because they needed money
18 for margin calls, or did they first go to the bank for some
19 totally unrelated reason, what is it in here in this paragraph
20 that from your point of view sheds light on that?

21 A. Well, in reading this paragraph, there's a couple of
22 things to note. They certainly know--and this is, remember,
23 October 1st of 2008--that the margin calls are coming.
24 They refer here, and it's the -- let's see -- third full line
25 up about this, if the stocks -- the trading prices fell below

1 \$10 per share --

2 Q. Excuse me. Is this (indicating) what you're referring to
3 right here?

4 A. Yes.

5 MR. SADLER: Let's highlight that whole sentence
6 just so we're not leaving anything out.

7 Q. (BY MR. SADLER) And I apologize for interrupting you.
8 Go ahead. I just wanted us all to see it.

9 A. So she's pointing out here, you know, that if this
10 happens, and they're pointing to the fact that they're
11 anticipating it might, that if these stocks trade below \$10
12 per share, then there's going to be these calls at these
13 banks.

14 So they are certainly referring to the margin calls. But
15 what they're referring to to solve that problem is really
16 sales of stock.

17 Q. Now, Mr. Magness says here, or it's recorded that Mr.
18 Magness said, that at that time he was not a mind to sell any
19 stock. Do you see where I'm referring to?

20 A. Yes, I do.

21 Q. And we're going to talk about it. But I need to ask you
22 here, again, in the course of your investigation, did you
23 find, not too long after this, documents indicating that, in
24 fact, Mr. Magness was absolutely willing to sell stock to
25 solve his margin call problem?

1 A. Yes, he did.

2 Q. All right. So they know margin calls are coming as of
3 October 1. Is there something in this document that says
4 anything about what they're doing with the \$102 million in
5 Stanford CDs?

6 A. Well, there is. It's a separate paragraph, but it's not
7 related to the margin calls at all.

8 Q. Let's -- let's look at that. I think that's paragraph 6.

9 A. Yes.

10 Q. And we can see the words in this paragraph, but I want to
11 be sure that there isn't something else in this document
12 anywhere.

13 Is there anything in this document that discusses,
14 comments on, intimates that, in light of the margin calls they
15 know are coming, that they're going to look to these CDs as
16 the source of cash to solve their problem.

17 A. No. If you look in this document, this is really all you
18 see about the certificates of deposit; basically that they
19 continue to hold them and there have been no redemptions.
20 I've not seen anything else in the documents.

21 Q. All right.

22 MR. SADLER: We can take that down.

23 Q. (BY MR. SADLER) Now, we started this conversation by,
24 you mentioned that you saw some testimony from Ms. Dokken on
25 the subject of why they went to the bank to try to redeem just

1 to take the interest.

2 MR. SADLER: Let's take a look at that. It's in
3 Trial Transcript Volume 3, page 84, and I believe we start at
4 line 21 and then it rolls over into the next page.

5 So let's -- let's grab all that, Mr. Jarrett, so we all
6 can see.

7 Q. (BY MR. SADLER) So this is the -- let me just ask you.
8 Is this the testimony from Ms. Dokken that was given at this
9 trial?

10 A. Yes. This was provided during the trial testimony.

11 Q. All right. So let me first ask you, a question was put
12 to her -- and this was her -- this is from her deposition, is
13 it not?

14 A. It is, but this is the part played in the trial.

15 Q. Okay. So it was played here.

16 The question starts, "So the meeting could have taken
17 place on the 1st."

18 Could you confirm for us what meeting are they talking
19 about?

20 A. Those are the -- the meeting of the investment committee
21 and the board that we just saw the minutes to.

22 Q. Same as the document we just saw.

23 A. That's correct, yes.

24 Q. Okay. So we're talking about this same October meeting.
25 And then the question continues, there's a follow-up

1 discussion on the subject of he would take out the interest
2 part of the CD. Do you see where I'm focusing on?

3 A. I do, yes.

4 Q. Now, I want to draw your attention, if we could highlight
5 it, the very first line of her answer, and actually the couple
6 of words on the next page. She says, "At this time he --"

7 Let me ask you, from your investigation, who is the he
8 she is talking about?

9 A. She's referring to Mr. Magness.

10 Q. "-- he had huge, huge expenses other than the margin
11 debt."

12 From all of the information that you have reviewed, the
13 discovery materials and so forth, is that a true statement?

14 A. It is. It's consistent with other documents that I've
15 seen.

16 Q. And she goes on to talk about he was making a movie and
17 had Fortrust capital requirements. Let me ask you about that.

18 First of all, help us understand, what is Fortrust and
19 what are capital requirements that would cause Mr. Magness to
20 need money to pay capital requirements?

21 A. Well, Fortrust is the business owned by, as I understand,
22 Mr. Magness. I believe Mr. Knudson is involved in running it,
23 and that was discussed during testimony. And the capital
24 requirements were that to continue building and continue the
25 operations, there was more money required from Mr. Magness to

1 continue.

2 Q. And as part of your conclusion that the reason they went
3 to the bank to redeem the interest in the first place wasn't
4 because of margin calls; it was because of -- of these huge,
5 huge expenses, is this part of the evidence you looked at?

6 MR. PETRIE: Objection, Your Honor, form.

7 THE COURT: Overruled.

8 THE WITNESS: Yes. This is part of the evidence
9 that I've looked at.

10 MR. SADLER: We can take that down.

11 Q. (BY MR. SADLER) In the course of your investigation, who
12 is the person that the Magness defendants, if I can use the
13 term, "deputized" to go to the bank and make the request for
14 the redemption we were just discussing to get the interest?

15 A. I believe that was -- that was referred to, and that was
16 Tom Espy.

17 Q. All right. From your investigation, did the Magness
18 defendants request that Tom Espy approach the bank and attempt
19 to redeem at least the amount of the accrued interest?

20 MR. PETRIE: Objection, Your Honor. This is
21 hearsay. It's contrary to the evidence in the case.

22 (Discussion at the bench, out of the hearing of the
23 reporter.)

24 Q. (BY MR. SADLER) So, Ms. Van Tassel, so getting back to
25 the question I was just asking you, and I'll rephrase it, you

1 mentioned earlier that in terms of understanding the sequence
2 of started with redemption, that was refused, then it turned
3 to loan, that sequence, I think you mentioned you had seen
4 documents that confirmed that.

5 A. Yes, that's correct.

6 Q. And is one of those documents these December 5 meeting
7 minutes that, in fact, we just saw extensively here earlier
8 this morning?

9 A. Yes, that's part of it. It refers to the request to go
10 get the -- to go -- for Tom Espy to go request the redemption.

11 Q. Okay.

12 MR. SADLER: Let's pull up Plaintiff's Exhibit 384,
13 which I believe are the minutes that we looked at this
14 morning. And if we could blow up paragraph 4. That's fine.

15 Q. (BY MR. SADLER) And I'll direct your attention --

16 MR. SADLER: And if we could highlight it, the
17 first, I don't know, three, three and a half lines.

18 Q. (By MR. SADLER) Is this the information you were
19 referring to is that Mr. Espy had reported that he had gone to
20 the bank, after the October 1st meeting, asking for a
21 redemption and was told redemption would not be possible? Is
22 that the information you were referring to?

23 A. Yes.

24 MR. SADLER: Let's leave that up there.

25 Q. (BY MR. SADLER) Based on your investigation, did you

1 come to a different conclusion about either the sequence or
2 who started this sequence?

3 A. No. I think this is pretty clear, and it's also in some
4 signed written statements by Mr. Magness.

5 Q. Okay. Now, I need to ask about -- and going back
6 to -- it says redemption of the certificates. We just saw
7 that testimony by Ms. Dokken where she was talking about
8 taking the interest out because of these huge, huge expenses.

9 My question to you is, why do they need to do a
10 redemption just to take out \$24 million in interest?

11 MR. PETRIE: Objection. No foundation. Beyond the
12 scope of her expertise.

13 THE COURT: Overruled.

14 THE WITNESS: Well, based upon what I've seen in the
15 evidence, as it showed, there was \$24 million roughly that was
16 part of the CDs. Also as part of my investigation, what I
17 understand is when those are -- that interest is baked into
18 the CDs, they can't just pay that interest out. Instead, what
19 they had to do in this situation was redeem a like amount of
20 CDs so that the interest could be removed.

21 Q. (BY MR. SADLER) Okay. I'm -- I'm not sure I followed
22 that, so forgive me, but I've got to go back to you on that.

23 So Mr. Magness, as we just saw, has \$102 million on the
24 books in total CDs. \$24 million of that is this accrued
25 interest that Ms. Dokken was talking about going to get. Do I

1 have the numbers correct?

2 A. That's correct, yes.

3 Q. All right. Now, we had \$79 million originally go in.
4 How is it that some of the interest is now part of the
5 principal of the CD? That's the part I'm not understanding.
6 So if you could help us with that.

7 A. Sure. Mr. Magness had elected not to remove the
8 interest, so it continued to accrue over the period of time.
9 He began to buy these in 2004. So that interest accrues over
10 time. And when the CD becomes matured, that new amount
11 becomes the CD.

12 And may be best to give you an example. If you have
13 \$100,000 CD at 10 percent interest for one year, at the end of
14 that one year, you'll have \$110,000. \$10,000 of that will be
15 interest. Well, if you decide to roll over your CD, you have
16 a new CD that is now worth \$110,000. So that's the now
17 principal of the new CD, but it has interest in it.

18 Q. And so under the -- I want to be sure I understood.
19 Under the bank's rules, is it correct that you as a depositor,
20 you can take the interest out monthly in cash if you wanted
21 to?

22 A. That's correct, yes.

23 Q. If you, as a depositor, let the interest roll over on
24 your CD, your \$100,000 CD became 110-, and the next year it
25 was 120- or whatever. If at that point you went to the bank

1 and said, well, I want to take out the interest that I've
2 earned over the whole life of the CD, is that what required a
3 redemption versus just taking the cash?

4 A. That's correct, because it's already kind of, as I call
5 it, baked in there. There has to be a redemption because that
6 election wasn't made to take it out over time.

7 Q. And so that -- that starts our sequence--the request for
8 the redemption.

9 I think we have right in front of us, but just so that
10 it's on the record from you the investigator, what did you
11 conclude from your investigation was the bank's response to
12 the request by Mr. Espy for a redemption?

13 A. Well, as it states here, and I've seen in other evidence,
14 the bank declined the redemption.

15 Q. And with respect to not the fact that they declined the
16 redemption but the reason why they declined the redemption--by
17 they, I mean the bank--did you find evidence in the discovery
18 materials that you reviewed as part of this case that shed
19 light on the reason the bank gave for saying, no, no
20 redemption at this time?

21 A. Yes. I had mentioned, I think, before that there were
22 some written discovery responses by Mr. Magness, and it
23 indicates in there the reason why the request was denied.

24 Q. And is the reason given by the bank that, in part, due to
25 the general market decline, SIBL, the bank, wanted to keep the

1 asset value of the CDs on its balance sheet?

2 A. Yes. That is what they said.

3 Q. And I think you have it in your book, and so we just need
4 to identify it for the record, if you will. We're looking at
5 Exhibit 20 in your book.

6 A. Okay. I have it.

7 Q. And would you read just the title of the document?

8 A. The title is the Magness Defendants' Supplemental
9 Objections and Answers to Receiver's First Set of
10 Interrogatories.

11 Q. And I think I may have asked you this, but an
12 interrogatory in the context of a lawsuit is just one side
13 gets to ask questions in writing and the other side responds?

14 A. That's all it is.

15 Q. And if you would turn to the back page, who signed under
16 penalty of perjury these answers to the Receiver's
17 interrogatories?

18 A. It is signed by Gary Magness.

19 Q. And signed on January 15 of 2016?

20 A. That's correct. That's the date.

21 Q. And then with specific respect to this information we
22 just discussed, the reason the bank gave for saying, no,
23 redemption not possible, was there information -- did this
24 come out of these interrogatories?

25 A. Yes. This is the source of the information.

1 Q. And I want you to turn to page 14 of the document, just
2 so we have that in front of us. The first -- I have to ask
3 you this question. Going back to your experience, more than
4 100 cases as a forensic investigator, have you ever had a
5 situation where you walked into some allegation of some
6 financial impropriety and had to look through a mountain of
7 information and then you kind of found the needle in the
8 haystack, the diamond in the rough, there was a nugget of
9 information that really shed light on the questions you had?

10 A. Yes. I mean, there's -- oftentimes we have so much
11 information. But, again, this is from an accounting
12 perspective, it's exciting to find one thing that -- that
13 makes a lot of sense and explains a lot of things.

14 Q. And is that kind of what happened here?

15 A. It is.

16 Q. Well, let's look at the statement that attracted your
17 attention as an investigator. And if -- I paraphrased it, but
18 I want you to read the full sentence. And if you would just
19 read it for us, starting with, "Mr. Espy."

20 A. Let me find it first. Okay. "Mr. Espy again advised Mr.
21 Magness that redemptions could take time and could result in
22 penalties SIBL would assess, that loan secured by the CDs
23 would be easier and quicker and that, given the general market
24 decline, SIBL wanted to keep the asset value of the CDs on its
25 balance sheet."

1 Q. So tell us, Ms. Van Tassel, what stood out to you about
2 that statement--given the general market decline, SIBL wanted
3 to keep the asset value on its balance sheet. Why did that
4 stand out to you?

5 A. Well, you know, the reason is that we have this public
6 information, and all along this period of time the bank is
7 telling the public, We're strong; we don't have a balance
8 sheet problem; even though the market's down, we're doing
9 fine; we are having a great year.

10 And this is exactly the opposite of that, and this is
11 private information that was given to the Magnesses than I'd
12 ever seen in any other public information. And it is -- it's
13 inconsistent with what the bank is trying to tell the
14 public--we're not connected to the market. It is saying, We
15 cannot allow the redemption because we need to keep it on our
16 balance sheet.

17 Q. All right. We have two pieces of information clearly in
18 front of us, and I need to ask you about the significance of
19 both of them, but I want to ask about both.

20 A. Okay.

21 Q. We have just seen in the records of the meeting minutes
22 and from your testimony as an investigator, that when they
23 went to the bank to get the interest, not for margin calls but
24 for all of those huge expenses, first they were told, no, not
25 possible at this time. Then, as we've just seen from the

1 statement signed under oath by Mr. Magness, they were told the
2 bank needs to keep the asset on its balance sheet due to the
3 general market decline.

4 And I want you to be very clear with us: What is the
5 significance of these two pieces of information.

6 A. Well, you know, I do think it's important to look at it
7 in two pieces. First of all, it's the fact that they went to
8 the bank, and the bank said, Sorry, you can't redeem. That
9 would be alarming. Then when you get to the reason that they
10 won't redeem, because now they know that the bank is subject
11 to these market declines that it's been saying that it's not,
12 that reason is even, from my perspective, even more alarming.

13 Q. Now, we heard this morning the testimony of Mr. Ray
14 Sutton, a lawyer for the Magness folks, and do you recall he
15 was asked what his reaction was when he was made aware that
16 they couldn't redeem? Do you recall his testimony?

17 A. I do.

18 Q. And I believe Mr. Sutton told us just a couple of hours
19 ago, maybe a little earlier, that to him that was a big red
20 flag.

21 My question to you is, do you agree with that?

22 A. I do. I think it is a big red flag.

23 Q. And tell the jury, it is a big red flag of what?

24 A. That the bank has been making false statements to cover
25 up the fact that they have financial problems, they don't have

1 a strong balance sheet, they don't have liquidity.

2 Q. All right. So we started a little while ago talking
3 about the public story of Stanford and the bank and what the
4 Magness Defendants heard privately. So now I've got to ask
5 you about these two pieces of information.

6 From all of your work as an investigator in this, what
7 evidence did you ever see that in this time frame, October
8 2008, that publicly, publicly, the bank was telling
9 depositors, Sorry, redemption not possible at this time?

10 A. They were not telling people that. In fact, I know
11 during October there were other redemptions that occurred.

12 Q. From all of the information you have reviewed about what
13 the bank was putting out publicly in this time frame, October
14 2008, were they putting out any information, any information,
15 that people could not make a redemption or that redemptions
16 were capped or that redemptions were going to be handled
17 differently; because of the general market decline, they
18 needed to keep all the CDs on the bank's balance sheet?

19 A. No. That was never made public in any way that I've ever
20 seen.

21 Q. And you told us earlier in your testimony that when there
22 came a time shortly before the government shut down the bank
23 that the bank stopped making redemptions, my question to you
24 is, what effect would it have had on the bank on this time
25 frame, October 2008, if the bank had told everyone publicly

1 what they told the Magness Defendants privately, Sorry, can't
2 redeem, I need your asset on my balance sheet?

3 MR. PETRIE: Objection. Speculation. No
4 foundation.

5 THE COURT: Overruled.

6 THE WITNESS: Well, we know what did happen when
7 they made that announcement. There was a run on the bank.
8 And I think, in October, that would suggest that the exact
9 same thing would happen at that point in time. It makes sense
10 from the investors' standpoint.

11 Q. (BY MR. SADLER) In fact, from your experience in
12 investigating financial frauds of all kinds, including Ponzi
13 schemes, if word gets out that the guy running the investment
14 is a fraud, is not giving people back their money, what effect
15 does that have on how long the fraud continues to go on?

16 A. That's where the Ponzi scheme will be disclosed. It's
17 this, you know, tension that they have to keep, that they have
18 to try to pay out as much as they can while still continuing
19 the Ponzi scheme, because they can't let an investor be
20 unhappy and go to the authorities.

21 Q. All right. You were here for Mr. Magness' testimony,
22 were you not?

23 A. I was, yes.

24 Q. And I believe we've heard testimony that in terms of
25 whether we're talking about redemption or loan, that the

1 communication pipeline was Mr. Magness to Mr. Espy to Mr.
2 Tolentino and then back the other way.

3 My question to you is, from your review of the records,
4 the emails, did you come to any different conclusion?

5 A. No. The email communication that I've seen -- and I
6 think we may go through some of that, but that is exactly how
7 it went. Mr. Tolentino would talk to Mr. Espy, Mr. Espy would
8 talk to Mr. Magness, and that makes sense. So we know that
9 this communication then went the same way.

10 Q. And when you say "this communication," are you talking
11 about this information that came from the bank that redemption
12 not possible and because of general market decline we need to
13 keep the CD?

14 A. Yes. We saw that in the minutes where Tom Espy comes
15 back and says, you know, I talked to Mr. Tolentino, telling
16 Magness parties, Mr. Magness, this is what the bank said.

17 Q. So at this point in time, if the public story is
18 everything's fine, you want to redeem, redeem, you want a
19 loan, have a loan, you want interest, have interest, the
20 balance sheet is great, if that's the public story and the
21 private story is you cannot redeem, not possible, we need the
22 asset on our balance sheet, what are those facts setting forth
23 about whether the bank is lying to everybody about its
24 financial condition?

25 A. Well, it is lying to everybody. What Tom Espy and the

1 Magness parties now have in front of them is this very
2 specific difference between what they're telling the public
3 and what the bank is telling them privately. And so that lie
4 is being made to cover up the balance sheet problem.
5 It's -- they told the Magnesses. The people who don't know
6 are the general investors.

7 Q. All right. So now -- so let's focus on Mr. Espy for just
8 a minute because he's in the middle of this communication.
9 We've heard a lot of testimony about Mr. Espy's connections to
10 Mr. Magness. We don't need to go over all that again. But I
11 do have two questions.

12 First of all, was it part of your investigation that the
13 Receiver asked you to do in this case to, in fact, examine,
14 look at the connections, the relationships, all of them
15 between Gary Magness, on the one hand, and Tom Espy on the
16 other hand?

17 A. Yes. That was part of what I did.

18 Q. And that was in one of your reports that you put out in
19 this case?

20 A. It was, yes.

21 Q. And so if you could tell us, again, maybe how would
22 we -- how would you find or how did you find -- let me ask a
23 much better question.

24 What facts did you find of significance in your
25 investigation concerning the relationship between Tom Espy and

1 Gary Magness?

2 A. Well, there were a few of them. I've seen in email and
3 other documentations, they and their families or Tom Espy's
4 girlfriend would travel together, not only to Antigua, but to
5 other places.

6 Mr. Magness actually loaned money to Mr. Espy. At one
7 point it was as much as a million dollars, because Mr. Espy
8 had problems with loans on his home. But I think at the end
9 of time, Mr. Espy says that he still owes him more than
10 \$100,000. So, you know, Mr. Espy certainly owed Mr. Magness
11 over this period of time.

12 Additionally, I saw information that Mr. Espy is actually
13 the godfather of one of Mr. Magness' children.

14 Q. So now focusing on Mr. Espy, did you find in your
15 investigation, again in this time period, the time period
16 where Mr. Espy knows the public story, he's heard the private
17 story from the bank, in this time period did you find evidence
18 that Mr. Espy had other information about what the bank was
19 telling people about its financial wherewithal?

20 A. Yes. In fact, it was -- it was October 10th. There was
21 a meeting in Miami, and it was for Stanford executives and
22 financial advisors. Mr. Espy was in -- in attendance there,
23 and Mr. Tolentino gave a presentation, which he talked about
24 the bank and that it was still strong, financially solvent,
25 and -- and had plenty of liquidity.

1 Q. Okay. And I -- and I believe we have a document that
2 will help us with that. It's not in evidence yet so let's not
3 put it up on the screen yet.

4 Do you have in front of you in your notebook Defendants'
5 Exhibit 85? It should be towards the back of the notebook.

6 A. Yes, I have it.

7 Q. And let me just help you with the identification. Is
8 Defendants' Exhibit 85 a cover email from Lula Rodriguez of
9 Stanford, dated October 17, 2008, transmitting to a number of
10 Stanford executives materials concerning the presentations
11 made at this meeting that you just mentioned?

12 A. That's correct. That's what this is.

13 Q. And included with -- in this packet are there, in fact,
14 the written remarks of bank president Juan
15 Rodriguez-Tolentino?

16 A. Yes. Those were included in the packet that was sent
17 out.

18 Q. And did you locate these materials, review, and rely upon
19 them as part of your investigation in this case?

20 A. I did, yes.

21 MR. SADLER: And I believe there's no pending
22 objection, but we'll offer Defendants' 85.

23 MR. PETRIE: There's no objection, Your Honor.

24 THE COURT: It's admitted.

25 MR. SADLER: All right. Let's put that up on the

1 screen, if we could, just starting with the cover email. And
2 if we could, it's still really difficult to see, but let's
3 just identify what we're looking at.

4 Q. (BY MR. SADLER) So let's first focus on the date, Ms.
5 Van Tassel. The date of the email is October 17, but does
6 this refer to this meeting that has already happened sometime
7 in the past?

8 A. It does. If you look at the subject line, it's referring
9 to the meeting that occurred actually on October 10th.

10 Q. And, in fact, do we see that in the first line --

11 MR. SADLER: If we could highlight, Mr. Jarrett.

12 Q. (BY MR. SADLER) -- Ms. Rodriguez is talking about,
13 pleasure to see all of you last Saturday, or this past
14 Saturday. Do you see where I'm reading?

15 A. Yes, I do.

16 Q. So the previous Saturday would be the 11th of October.

17 A. That's correct.

18 Q. So this is right in the middle of when this whole loan
19 process starts. Right?

20 A. That's correct.

21 Q. So let's turn, if we can, to the part of the document,
22 and I believe it's on page 27, that are Mr. Tolentino's
23 remarks.

24 MR. SADLER: And if we could just be sure who we're
25 talking about. Let's grab the top part there.

1 Q. (BY MR. SADLER) From your investigation, is this the
2 written material Mr. Tolentino presented at this meeting?

3 A. It is. Yes, it is.

4 Q. And does he make specific remarks at this meeting on
5 October 11th with regard to how the bank's doing generally and
6 what the bank's cash position is?

7 A. Yes. He specifically refers to the bank's financial
8 position in those ways.

9 Q. All right. And let's look at that. And I think we have
10 a slide that will just help us focus on those remarks.

11 MR. SADLER: If we could bring that up, Mr. Jarrett.

12 Q. (BY MR. SADLER) Okay. So we're in the same document.
13 Juan Rodriguez-Tolentino. And just to be clear, is this the
14 same Juan Rodriguez-Tolentino, president of the bank, that Mr.
15 Espy is talking to when it comes to getting a redemption or
16 getting a loan?

17 A. Yes, it is.

18 Q. Okay. So let me ask you about each of these highlighted
19 statements first. Let me back up. So I forgot -- who -- who
20 is at this meeting in Miami? What kind of people? You know,
21 who's there?

22 A. From what I could see from the documentation, it was
23 Stanford executives, both in the U.S. and outside of the U.S.,
24 and it was the Stanford financial advisors.

25 Q. And Stanford financial advisors includes Tom Espy?

1 A. It does, yes.

2 Q. Okay. All right. So that's who's there. Mr. Tolentino
3 is making the presentation. And first he says, We are liquid.

4 Now, that's consistent or is that consistent with the
5 public story that they put out through this whole time period?

6 A. Yes. They've always said that that was one of their main
7 features.

8 Q. All right. And then he says something about mandate from
9 board of directors; to maintain liquidity, we're sitting on 14
10 percent.

11 Explain to the jury what does that mean--liquidity of 14
12 percent? What does that mean.

13 A. Well, when they refer to that, that is as a percentage of
14 their assets. So at this time they have about \$8 billion, as
15 I said, in assets. A little over that, actually. So at 14
16 percent, they'd be sitting on over a billion dollars of cash.

17 Q. Well, let me ask you about both of those figures so that
18 we're absolutely clear. If we're talking about October of
19 2008 or any time in this time frame, was Stanford
20 International Bank sitting on \$8 billion of actual assets?

21 A. No. As we saw from the slide that we showed, their cash
22 was going down, and by the end of the month they only had 65
23 million. At the beginning of the month, they only had 411
24 million.

25 Q. And with regard to 14 percent of their portfolio in

1 liquidity, was Mr. Juan Rodriguez-Tolentino sitting on more
2 than a billion dollars in cash?

3 A. No, he was not.

4 Q. So these were lies?

5 A. Absolutely they are lies.

6 Q. And he says, we have cash, cash is king in this market.

7 From your perspective as a forensic investigator, tell us
8 the significance of cash is king in this market.

9 A. Well, what he's saying is, you know, the bank realizes to
10 weather the storm, they are going to need cash. It's
11 important for all financial institutions, and he's saying that
12 they continue to be very strong, as they always have been, and
13 have plenty of liquidity.

14 Q. And, in fact, does he make a comment down below about how
15 much in assets he claims to be sitting on at the bank?

16 A. He does. He's saying that about \$8.3 billion of -- in
17 total assets. So I was a little low in my estimate.

18 Q. Now, I want to direct your attention to this comment. He
19 says, "We may have a small loss for the first time in many
20 years, but we have the capital to cover that." Do you see
21 that?

22 A. I do.

23 Q. And if Mr. Rodriguez had been telling the truth, he
24 wouldn't be talking about a small loss, would he?

25 A. He would not be talking about a small loss.

1 Q. Okay. At this point is he sitting on a balance sheet
2 that has a multi-billion-dollar hole in it?

3 A. Yes.

4 Q. Well, with regard to he says we may have a small loss for
5 the first time in many years, if we now just briefly fast
6 forward, did they later in the year -- this is early October.
7 In December did they, in fact, put out a report that says, Oh,
8 we've had a small loss for the year?

9 A. They did. In, I think it was, December of 2008, they put
10 out -- I think Mr. Espy testified to this. They put out a
11 report that showed that they had a loss of about \$110 million.

12 Q. So to understand this, in this time frame, October 2008,
13 we've had a lot of testimony about stock market was crashing.
14 And my first question is, that's all consistent with both your
15 memory and your investigation, isn't it?

16 A. That's correct, yes. That is what was happening during
17 this period of time.

18 Q. Was any financial institution of any size or reput
19 talking about only a small little loss in this time frame?

20 A. No. They were trying to manage how large the loss would
21 be.

22 Q. Well, so help us understand. Stanford is saying, while
23 everybody is down double digits or more, we're only operating
24 at a small loss. What's the significance of that?

25 A. Well, the significance of that is, you know, the

1 implausibility of that story. They had said that their
2 balance sheet wasn't connected to the marketplace, and
3 therefore we're not going to make -- we're not going to lose
4 the kind of money other banks have.

5 But now we know that the Magnesses knew that wasn't true.

6 Q. Now, we're going to see some --

7 MR. PETRIE: Excuse me, Your Honor. Move to strike
8 the last comment. It violates your limine ruling.

9 THE COURT: The jury will disregard.

10 Q. (BY MR. SADLER) With regard to the loans -- and we're
11 going to see some documents in just a moment about that. With
12 regard to the first loan that was funded, was that
13 funded--that is, the cash moved out of the bank--on or about
14 October the 10th?

15 A. It was. The \$25 million was districted to the Magnesses
16 on October 10th.

17 Q. And so from your investigation -- and this meeting
18 happens the very next day, October 11TH, doesn't it?

19 A. It does.

20 Q. Okay. But from your investigation, if we're talking
21 about the conversation between Mr. Espy on the one hand and
22 Mr. Tolentino on the other hand where he hears, Can't do a
23 redemption, need to keep the asset on the balance sheet due to
24 the general market decline, hadn't that conversation already
25 happened by then?

1 A. Yes, because by the 10th when they're paying out the
2 first loan, remember the CD or the redemption request and the
3 denial all happened well before that.

4 Q. So, again focusing on Mr. Espy, if we're talking about as
5 of October the 11th when he is at Miami listening to this
6 speech about, We have a billion dollars in cash, we're doing
7 fine, and he's already heard from the same guy, Your client
8 can't redeem because I need his asset on my balance sheet, my
9 question to you is, is there any legitimate way to reconcile
10 those two stories that are right in front of Mr. Espy?

11 A. No. I mean, you either have a billion dollars of cash or
12 over a billion dollars of cash and you are very liquid or you
13 don't. And what they told The Magnesses is that they were
14 told that they didn't. So Mr. Espy has the evidence in front
15 of him that the bank is continuing to tell the story one way
16 to the public and has said another to the Magness Defendants,
17 him delivering that story.

18 Q. All right.

19 MR. SADLER: I think we can take that down,
20 Mr. Jarrett.

21 Q. (BY MR. SADLER) I want to now focus a little bit more
22 specifically about the loans themselves. We've talked about
23 the sequence, the chronology. Now I want to focus on some
24 specific facts on the loans. So we know from what we've
25 already talked about, they first go to the bank just to redeem

1 to get the interest because of the expenses.

2 MR. SADLER: Let's put up the slide that lists, if
3 we could, the fraudulent transfers just so we have the dates
4 right in front of us.

5 Q. (BY MR. SADLER) So, first of all, can you confirm for
6 us, are these, in fact, the dates and the amounts of the
7 fraudulent transfers that went to the Magness Defendants?

8 A. Yes. These are the amounts and the dates of the
9 transfers to the Magness Defendants.

10 Q. And so it's on October 10, \$25 million in cash was
11 transferred. On October 24, \$44 million was transferred.
12 October 28 in two different segments a total of \$19.2 million
13 was transferred for a total of \$88.2. Is that the totals, the
14 dates, the amounts of the cash that was transferred to the
15 Magness Defendants?

16 A. Yes. That is the amount.

17 MR. SADLER: All right. So let's leave that up
18 there.

19 Q. (BY MR. SADLER) So in connection with the loans, the
20 fraudulent transfers, I want to be real clear. Did you
21 review, go into the Stanford email files and review the emails
22 going from Juan Rodriguez-Tolentino to Mr. Espy, Mr. Espy
23 going back, did you review those chains of emails, those
24 communications?

25 A. Yes. That was part of our investigation.

1 Q. Now, did you locate in those emails information that was
2 of significance to this idea that although publicly the bank
3 was saying, We've got plenty of cash, that when the Magness
4 Defendants actually went to get the cash it wasn't quite so
5 clear? Did you find information on that subject?

6 A. Yes, there is email information that reflects that in the
7 correspondence.

8 Q. And, in fact, we are going to get to that email in just a
9 second, but I want to put up the declining balances slide
10 again just for a moment.

11 So we looked at this just a minute ago. But just to line
12 up the dates. So if we're talking about the first loan --

13 A. Yes.

14 Q. October 10th the bank is sitting on now less than \$300
15 million in cash. Am I looking at your chart correctly?

16 A. That's correct, yes.

17 Q. So even though the bank started out at the beginning of
18 the month with almost \$411 million, we're barely ten days into
19 the month and they're already under \$300 million. Am I
20 understanding your chart correctly?

21 A. That is correct, yes.

22 Q. All right. So now we're going to focus on the time frame
23 of this first loan. And there looks -- to me it looks like a
24 pretty significant drop in the bank's cash right in this time
25 frame. Am I interpreting the chart correctly?

1 A. Yes.

2 Q. What part, if any, of that drop in the bank's cash is
3 attributable to the Magnesses' first fraudulent transfer of
4 \$25 million?

5 A. Well, in that one day the net outflow from the cash
6 balances was \$50 million, so the Magnesses' \$25 million was
7 half of the amount that went out that day.

8 MR. SADLER: All right. We're through with that.
9 Let's pull up Plaintiff's Exhibit 218, which is one of the
10 emails one of the documents that shows the email back and
11 forth with Mr. Tolentino and Mr. Espy. Let's blow this up, if
12 we could, so we can all see it nice and big.

13 Q. (BY MR. SADLER) So this is an email between Tom Espy,
14 Juan Rodriguez-Tolentino, Thursday October the 9th.

15 My first question, is this one of the emails you found
16 and reviewed in your investigation?

17 A. Yes, it is.

18 Q. All right. I want to draw your attention to a few of the
19 statements in this email and ask you about them.

20 First of all, it says, Mr. Espy talking to his friend
21 Juan, Would it be possible to take out an 18 million dollar
22 loan against our CDs for a week? Do you see that?

23 A. Yes.

24 Q. As you did your investigation, what significance, if any,
25 did you find, first of all, in the request being phrased,

1 Would it be possible to take out an \$18 million loan?

2 A. Well, it's -- the phrasing is asking whether it be
3 possible to take out 18 million when what we know is that
4 Mr. Magness would have been pre-approved for about 80.

5 Q. So I want to be sure I understand it correctly. As of
6 this time, if everything's working the way it's supposed to
7 work and the bank has plenty of cash, which we know it
8 doesn't, at this point this time under the bank's rules, is
9 Mr. Magness supposed to be able to just walk in and say, I
10 want 80 something million dollars?

11 A. Yes.

12 Q. All right. So Mr. Espy says, Well, would it be possible
13 to take out 18 million, and then he says, For a week to
14 satisfy a problem at U.S. Bank? Do you see that?

15 A. I do, uh-huh.

16 Q. Let me focus our attention now on this statement about
17 for a week. Was there any requirement in the bank's rules and
18 policies about these loans that said, Well, we'll only make
19 you a loan if you promise to pay it back in as little as a
20 week?

21 MR. PETRIE: Objection; hearsay.

22 THE COURT: Overruled.

23 THE WITNESS: No., There was no provision that would
24 require a payment in a specific time period; certainly not a
25 week.

1 Q. (BY MR. SADLER) And with respect to this \$18 million,
2 pay it back in a week, we're going to talk about these, but I
3 want to get it clear up front. When we talk about the other
4 loans, the other fraudulent transfers, did you find similar
5 statements from the Magness folks talking about, We're taking
6 out a loan, but we're going -- it's only short term; we
7 promise to pay you back very quickly?

8 A. Yes. For each of the other three other loans, the \$44
9 million, the 17, or the 12 and -- Excuse me. And the 7, they
10 all had the same kind of provisions--that they would pay them
11 back within a week.

12 Q. Well, whether it's a week or short term, I need to ask
13 you about that, because were you here for the testimony that's
14 been presented by the Magness side to the effect of all during
15 this time October, margin calls were pouring in, pouring in
16 daily, and they needed all the cash they could get from SIB to
17 handle those? Have you been here to hear that testimony?

18 A. Yes, I have.

19 Q. Well, then I have to ask you to help us understand
20 something. If the story is, We need all the cash we can get
21 to pay margin calls, we don't want to sell our stock to pay
22 margin calls, there's no requirement that this loan be paid
23 back in a week, help us make sense of this. How does this
24 make sense in the context of the evidence you've heard?

25 A. Well, based upon the evidence that we've seen here, the

1 bank would want to get that money back. And now Mr. Espy
2 knows that the bank needs the money back. He's been told
3 that, We have a balance sheet problem, we don't want to redeem
4 because we want to keep that on our balance sheet, so it makes
5 sense that the bank would need that money back quickly. It
6 would not make sense from the Magness parties because, as
7 we've heard, they had the other expenses, the movie, and
8 Fortrust, and those types of expenses, in addition to the
9 margin calls. So paying back quickly would not be something
10 that would be in the best interests of the Magnesses. So that
11 kind of demand or request would likely come from the bank.

12 Q. Well, and if we're talking about borrowing \$18 million
13 for a week, I mean, it sounds a little bit like a payday loan.
14 Have you ever heard of such a thing?

15 A. I have, yes.

16 Q. Let's come back to that when we look at these other
17 loans, but I've got another question for you about this.

18 MR. SADLER: Let's look at Plaintiff's 221. Let's
19 stay with this loan for just a minute. And if we could blow
20 up this kind of bottom two thirds of that.

21 Q. (BY MR. SADLER) Now, is this another exchange of emails
22 the same night, October the 9th, same evening October the 9th,
23 2008, back and forth between Mr. Espy and Mr. Tolentino on the
24 subject of the very first loan?

25 A. Yes. This is still in regards to the first loan.

1 Q. And are these emails that you found by going into the
2 email records of the Stanford businesses?

3 A. Yes.

4 Q. Now, one person I need to identify that's a new name
5 there's a fellow named Miguel Pacheco who appears on this.
6 Who is he?

7 A. I understand he is a vice president of the bank; works
8 with Mr. Tolentino.

9 Q. Used to.

10 A. Or used to.

11 Q. All right. Let's start from the bottom and work our way
12 to the top. So we've just seen an email that says, Would it
13 be possible to have an 18 million loan? Now we see
14 information where Mr. Tolentino, the subject line is now 25mm,
15 and he says, Going back to treasury. Cannot commit. I need
16 to ask you about those two things in sequence.

17 First of all, going back to treasury, from your
18 investigation, what did you determine about that?

19 A. Well, going back to treasury, what that seems to say to
20 me is that Mr. Tolentino, the bank president, doesn't have the
21 authority to make this kind of loan, and, in fact, he says he
22 can't commit.

23 Q. Well, and let's talk about that in a couple of pieces.
24 So we've already seen that in this time frame Mr. Tolentino,
25 the president of the bank, is seeing his cash balances drop at

1 a rapid rate. And that's consistent with your findings, is it
2 not?

3 A. It is.

4 Q. But he says, Going back to treasury. So I guess my
5 question is, who is this treasury that's controlling or trying
6 to control the amount of cash that's leaving the bank?

7 A. By this point in time it's James Davis, the chief
8 financial officer. He is the one who is overseeing the cash,
9 determining how much to let out, where to let it out. He has
10 specific control over the cash at that time, because he's not
11 only looking at having to manage it for the bank, but for
12 other entities, and not letting the Ponzi scheme collapse.

13 Q. And, in fact, when we talk -- when Mr. Tolentino says,
14 Cannot commit, how is that consistent, if it is, with your
15 findings and your investigation that in this time frame
16 Mr. Tolentino is a bank president who can see his cash
17 dropping, but the person actually controlling the cash is the
18 convicted criminal James Davis?

19 A. Well, what that means is Mr. Tolentino knows that the
20 money, even though they have enough money, that it's going out
21 very quickly, so they're having to maintain cash, so he knows
22 that Mr. Davis is not going to want to let any cash out that
23 he doesn't have to let out.

24 Q. All right. Now, there's a response, just -- the times
25 are kind of odd, but there's a response by Mr. Espy where he

1 says, Juan, are we still good on the 18 million? And then
2 another response, Still good. Working on 25 million. Do you
3 see that?

4 A. I do.

5 Q. In this time frame, if one believed what the bank was
6 telling everyone, We've got plenty of cash, we're doing fine
7 from a financial point of view, would there be any doubt, any
8 question that an \$8 billion bank could find somewhere 18 or
9 \$25 million?

10 A. No. For a bank that size, and remember just two days
11 later he is -- Mr. Tolentino is telling financial advisors and
12 others that he has over a billion dollars of cash, so at this
13 time 18, \$25 million for an investor, your single largest
14 investor who has the ability to request \$80 million, should
15 not be a problem.

16 Q. And, again, focusing on -- the fact is Mr. Espy is
17 getting this information. And focusing on the time, this is
18 now October the 9th. From your investigation, the request for
19 the redemption, the denial of the redemption, and the
20 statement, You can't redeem because of the balance sheet
21 problem, that's already happened by this time. Is that
22 correct?

23 A. Yes. The documents would reflect and the testimony would
24 reflect that that is the sequence of events.

25 Q. All right. So we've talked about the fact that this

1 uncertainty about the numbers, the availability of cash is one
2 issue, but I need to go back to this issue of Mr. Tolentino as
3 president of a bank that he doesn't appear to control the
4 cash.

5 A. Right.

6 Q. You've seen a lot of public literature from the bank that
7 features descriptions and glossy pictures of Mr. Tolentino.
8 I'm sure you've seen those.

9 A. We have. I mean, at the beginning of them he would have
10 a statement oftentimes and signed by him as the president of
11 the bank.

12 Q. Was part of the public story of Stanford Bank that it had
13 a real president of a real bank that had the real kind of
14 power that you would expect a bank president to have?

15 A. Yes. That would be the story that they're presenting to
16 the public.

17 Q. How is that story consistent, if it is, how is that story
18 explainable, if it is, in light of this information right in
19 front of Mr. Espy that he is communicating with the bank
20 president that can't make a commitment between a 25 million,
21 an \$18 million loan, and has to go check with somebody else?

22 A. That's not consistent. That should be something for a
23 bank president who has access to the cash that they should be
24 able -- that Mr. Tolentino should be able to make that
25 decision. After all, he is purporting to have plenty of

1 liquidity. There is -- Mr. Magness has every right to ask for
2 up to \$80 million, so 18 or \$25 million should not be an
3 issue.

4 Q. In any of the public materials that were put out to other
5 investors in this time frame, was there any information, any
6 suggestion in the published materials that if you need to get
7 a loan from this bank, don't bother talking to the president
8 because he's not the one really controlling the cash?

9 A. No. They were representing Mr. Tolentino as the
10 president of the bank.

11 Q. And in terms of finding the cash and where the cash was,
12 we've seen that the balances were declining rapidly. When you
13 were here for Mr. Espy's testimony, did you hear him give some
14 testimony about what he was told by Juan Rodriguez-Tolentino
15 in the course of these discussions about getting a loan?

16 A. I did. He did mention that in his testimony.

17 Q. All right. Well, let's look at Mr. Espy's trial
18 testimony. It's from Volume 5, page 62. It starts at line 10
19 and goes to line 20. This is Mr. Espy's testimony presented
20 here at trial. Is that your understanding?

21 A. Yes. That's correct.

22 Q. And you were here for that?

23 A. I was.

24 Q. So let's -- A question is being put to Mr. Espy that we
25 need to understand. First, the question is "You" -- that's

1 Mr. Espy, I assume.

2 A. Yes. That's correct.

3 Q. "You said he" -- he is who?

4 A. That would be Mr. Tolentino.

5 Q. Okay. So you Espy said that Tolentino said there were
6 some reserves at the bank of Toronto-Dominion. And then the
7 question is, What would be the relevance of reserves? Do you
8 see that question?

9 A. Yes.

10 Q. Let me stop there. Okay. As a financial professional,
11 forensic investigator, what significance is it to you that
12 when the conversation between Mr. Espy and Mr. Tolentino is
13 about, Can we have a loan of, whether it's 18 or 25, he says
14 Mr. Tolentino is talking about going into the bank's reserves
15 for that. What's the significance of that?

16 A. That would be another red flag for a bank. A billion
17 dollar bank, \$1.2 billion in cash, they should not have to go
18 to reserves to get 18 to \$25 million of money.

19 Q. Well, let me put the question to you again. If the
20 public story is, We have eight plus billion in assets, we have
21 a billion plus in cash, if that's the public story, how do you
22 reconcile that, if you can, with what Mr. Espy has been told,
23 which is, We're going to go have to find it in reserves?

24 A. I have not seen and I really don't understand what the
25 reconciliation could be between those two very different

1 stories.

2 Q. And let's --

3 MR. SADLER: We're through with that. We're through
4 with that.

5 THE COURT: Mr. Sadler, how are you looking on time?

6 MR. SADLER: Your Honor, I do have a bit to go.

7 Would this be an okay time for a break? There is going to be
8 a little bit more.

9 THE COURT: Yeah. That's what I was wondering.

10 Let's take our afternoon break and we'll see you back in
11 20 minutes.

12 (Whereupon, the jury left the courtroom.)

13 THE COURT: How much more do you think you have?

14 MR. SADLER: Probably 30-ish minutes, Your Honor.

15 THE COURT: How long are you thinking for cross?

16 You can't tell I'm looking at the Magness parties.

17 You're lined up.

18 MR. PETRIE: I'm thinking probably half an hour to
19 40; 30 to 40 minutes. Excuse me.

20 THE COURT: Okay. That's good. I'm trying to do
21 mental arithmetic, which I'm already on record as being poor
22 at, but you're maybe starting to eat into your closing
23 argument time if you go much beyond that.

24 MR. PETRIE: I understand, Your Honor.

25 THE COURT: Okay. I just want to be sure you

1 understand that.

2 MR. PETRIE: Thank you for warning me.

3 THE COURT: Anything else we need to take up?

4 MR. SADLER: No, sir.

5 THE COURT: Okay. See you in 20.

6 (Brief recess.)

7 THE COURT: All set?

8 MR. SADLER: Yes, sir.

9 MR. PETRIE: Yes, sir.

10 (Whereupon, the jury returned to the courtroom.)

11 THE COURT: Be seated.

12 The Receiver may proceed.

13 MR. SADLER: Thank you, Your Honor.

14 Q. (BY MR. SADLER) Ms. Van Tassel, we've been talking about
15 some of the process that led to the \$25 million loan, but
16 there are a couple of things about the \$25 million, the very
17 first fraudulent transfer that we need to cover.

18 We know that the loan was approved and the cash was
19 funded. That's -- you understand that, do you not?

20 A. I do, yes.

21 Q. All right. We need to talk about how, then, that loan
22 that you've called a purported loan was paid off.

23 MR. SADLER: Let's look at Plaintiff's Exhibit 223.

24 Q. (BY MR. SADLER) Now, is this one of the emails -- this
25 email between Tonya Dokken and Beverly Jacobs of Stanford

1 International Bank, is this one of the emails you reviewed
2 among all the papers you looked at in the case?

3 A. Yes, it is.

4 Q. And does this email relate to this first loan, first
5 fraudulent transfer, the \$25 million one?

6 A. It does. It speaks to the pay-down of the loan.

7 Q. And was it part of the required process of the bank that
8 to get a loan you had to tell the bank the purpose and the
9 source from which the loan would be repaid? Was that part of
10 the bank's process?

11 A. That was part of the process, yes; the paperwork that
12 needed to be filed.

13 Q. Okay. And so here we see Ms. Dokken on Friday the 10th
14 communicating to the bank that they're going to use the
15 proceeds.

16 Now, I want to be sure, when Ms. Dokken refers to using
17 the proceeds to pay down a loan, what are the proceeds? What
18 is she talking about?

19 A. Here she's referring to the \$25 million, the first
20 fraudulent transfer.

21 Q. All right. And then she says they--presumably the
22 bank--will release the collateral. They're going to sell the
23 underlying stock and use the proceeds to repay the loan. Is
24 the loan the \$25 million loan that they're about to get from
25 Stanford Bank?

1 A. It is. That's what she's referring to.

2 Q. And if there's any doubt, clear it up. But from your
3 investigation, did they do any of that that they told the bank
4 they were going to do?

5 A. No, none of this was done.

6 Q. And, in fact, have you been present in this case for
7 testimony by the Magness folks saying they didn't want to sell
8 stock during this time frame?

9 A. Yes. There's been testimony and documents about that
10 fact.

11 Q. So if we fast forward to the following Monday, that is
12 Monday the 13th, and talk about that week, what is the process
13 by which the Magness Defendants paid back, if I can use that
14 term, paid back the loan that turned out to be very different
15 than what they were saying here?

16 A. Well, so on really the next business day, because this is
17 Friday, Monday there is an email that expresses the Magnesses'
18 desire to pay off the \$25 million loan by making basically
19 paper transfers so that the interest from the CDs will pay off
20 the \$25 million loan, not underlying stock used to pay back
21 the loan.

22 Q. And from your review of the records, is that what
23 happened--that is, the Magness Defendants got cash on Friday,
24 but by Monday or Tuesday of the following week they had paid
25 back the loan just by trading their paper interest back to the

1 bank?

2 A. That's correct, yes.

3 MR. SADLER: Let's look at Plaintiff's Exhibit 232.

4 And I want to focus on this top email.

5 Q. (BY MR. SADLER) And my first question is,

6 Ms. Van Tassel, this is now an email from Tom Espy

7 communicating with Ms. Mendes of the bank on October 21st.

8 Do you see that?

9 A. I do, yes.

10 Q. Is this one of the emails that you found as part of your

11 investigation and that you reviewed as part of your work in

12 this case?

13 A. Yes, it is.

14 Q. And I first want to ask you about, this refers to the

15 7.2 million and the 12 million. Do you see that?

16 A. I do, yes.

17 Q. Are there references later down in the email string that

18 also pick up the \$44 million loan?

19 A. Yes. I think it's the next page.

20 Q. Okay. So we're talking about the next three loans, the

21 next three fraudulent transfers. There's a reference of the

22 source of repayment will be cash from existing accounts and

23 future sales of securities, and then they also say the loan is

24 short term.

25 My question to you is, from a financial perspective if

1 the Magness Defendants are facing, as they've said, daily
2 margin calls, margin calls pouring in from a financial
3 perspective, how does it make sense to take millions of
4 dollars out of Stanford Bank and then simply pay it back
5 either with cash they already have, or sell stock and use that
6 cash to pay back from a financial perspective? How does that
7 make sense?

8 A. Well, it doesn't make sense from a financial or economic
9 perspective. They're getting cash and then saying they'll pay
10 cash with cash and selling securities that they have indicated
11 they don't want to sell in the first place.

12 Q. Well, and similar to the loan we just looked at a minute
13 ago where they said on Friday, We're going to pay you back
14 this way, and then next week they did something different,
15 from your investigation looking in the bank's records, were
16 any of the other three loans, the \$44 million loan, the \$12
17 million loan, the \$7.2 million loan, were those ever paid back
18 with cash from existing accounts or cash from selling stock?

19 A. No., They were never paid back.

20 Q. Now, you were here for Mr. Bell's testimony where he
21 talked about his company Merrill Lynch received the proceeds
22 of the \$12 million loan. You were here for that testimony?

23 A. Yes, I was.

24 Q. And do you recall from his testimony that he understood
25 what happened is the Magness Defendants borrowed \$12 million

1 at a little over 11 percent. And let me just ask you. The 11
2 percent, that was what was put on the loan paperwork for all
3 four of these loans; that they were borrowing money at 11
4 percent?

5 A. Yes. They pay interest at two percent more than they are
6 earning on the CD.

7 Q. Okay. So Mr. Bell's testimony was that he received, he
8 and his company Merrill Lynch, received this \$12 million that
9 Stanford had borrowed at 11 percent, and he placed it on their
10 behalf in an account that was bearing 1.79 percent interest.
11 Do you recall that testimony?

12 A. I do, yes.

13 Q. And like Mr. Bell--the question was put to him--I'll put
14 the same question to you. From a financial perspective, does
15 it make any sense to borrow money from one bank where you're
16 supposed to have cash at 11 percent and move it to a different
17 bank where you're going to earn less than two percent? From a
18 financial perspective does that make any sense at all?

19 A. No, it doesn't.

20 Q. Well, let me ask you this. If the situation were you had
21 cash at one bank and they wouldn't let you take it out except
22 by lending it to you, and you had the opportunity to move that
23 cash to another bank, and the first bank was in trouble, the
24 second bank wasn't, from a financial perspective would it make
25 a whole lot of sense to borrow that money at 11 percent and

1 move it some place elsewhere you are only earning 2 percent?

2 MR. PETRIE: Objection; no foundation, and this is
3 not within this witness' report, Your Honor.

4 (Discussion at the bench, out of the hearing of the
5 reporter.)

6 Q. (BY MR. SADLER) Let's talk about now all the loans,
7 including the ones we are talking about here on this document,
8 so all the loans, all the fraudulent transfers. Grand total
9 of \$88.2 million.

10 From your review of the record and your investigation,
11 how did the size of that package of loans compare to other
12 loans by the bank in the relevant time period?

13 A. The Magness loans were much larger. From the period of
14 2007, beginning of 2007, through the receivership in February
15 of 2009, the next largest loan was about nine, nine and a half
16 million, so their loan was nine times more than the next
17 largest loan. During just 2008, just that year, the Magness
18 loan was more than 50 percent of all loans in that year.

19 MR. SADLER: And let's go back to the declining cash
20 balances slide.

21 Q. (BY MR. SADLER) And so, to be clear, the source of the
22 cash used to fund these loans, fund these fraudulent
23 transfers, is that part of the in and out that's going on
24 during this time period where the cash balance of the bank is
25 making this dramatic drop?

1 A. Yes. It is funded from this bank account.

2 Q. And you told us about the first loan, the 25 million,
3 that that was part of this very large drop.

4 Was the second loan, the second fraudulent transfer, the
5 44 million, is it part of this drop that's going on in this
6 time frame about October 23rd, 24th?

7 A. Yes. In fact, it's the entire drop. The drop is
8 \$44 million.

9 Q. And how, if we talk about the Magness Defendants got
10 \$88.2 million in cash in the months of October, how does that
11 compare to the total amount that the entire bank had in cash
12 at the end of the month, same period of time?

13 A. Well, at the end of the month you can see they had
14 approximately \$65 million, so the Magness Defendants received
15 more in that month than was remaining for all of the bank at
16 the end of the month.

17 Q. Well, I believe you've told us that during this period of
18 time that the bank was fairly desperate for cash.

19 And so my question now is, from your review of all the
20 records, after the cash went out of the bank with the promises
21 to be repaid in the way we've discussed, did you ever see any
22 record, any email, any letter, anything showing that the bank
23 ever demanded that the cash be repaid?

24 A. No. I never -- I have not seen any document that the
25 bank requests the repayment of the loan.

1 Q. Did you hear testimony from Mr. Espy on the subject of
2 the bank contacting him by phone inquiring about repayment of
3 these loans?

4 A. I do recall that, yes.

5 Q. Well, let's take a look at that. That's Volume 5 of the
6 trial transcript at page 110. And I believe we need to look
7 at line -- we are in the middle of the question, but line 1
8 through about 12, if we could get to 12.

9 Now, this is some of Mr. Espy's testimony that was played
10 for us. And you were present for that, Ms. Van Tassel?

11 A. Yes, I was.

12 Q. And what I want to direct your attention to is this part
13 right here where he says, "I think Juan." Is Juan Juan
14 Rodriguez-Tolentino?

15 A. Yes. That's correct.

16 Q. He says, Juan had asked me when I was going to pay --
17 when we were going to pay these loans. I pushed him off. And
18 he goes on.

19 My question to you is, what significance was it to you,
20 if any, that this Stanford FA was able to push off the bank
21 president when the bank president called asking about the
22 loans?

23 A. Well, what this reflects is the kind of pressure between
24 the bank and between the Magness parties, or this tension.
25 The bank is trying not to let anymore money go out. They'd

1 like to get the money back, but they can't run the risk of
2 angering their largest single depositor. And that's when the
3 Ponzi schemes fail is when somebody finds out the money's not
4 there, goes to the authorities, complains about it, and that's
5 the end of it. So the bank and Juan, that's why Tom as a
6 financial advisor can just kind of put his hand up to the bank
7 president and say, Sorry, I'm not going to talk to you about
8 that.

9 Q. All right. So you found no evidence --

10 MR. SADLER: And we can take that down.

11 Q. (BY MR. SADLER) You found no evidence that the bank,
12 having loaned this money on a short-term basis, expecting it
13 to be repaid quickly, as they needed it to be, ever demanded
14 repayment of the loan.

15 Now let's look at the other side. What records, what
16 documents, what emails did you find in your investigation
17 that -- from the Magness Defendants' side, that after they got
18 the cash they discussed, planned, thought about, were worried
19 about, How are we going repay these loans? Where's the cash
20 going to come from? Did you see any documents like that?

21 MR. PETRIE: Objection; leading and compound.

22 MR. SADLER: I can rephrase it, Your Honor.

23 THE COURT: All right.

24 Q. (BY MR. SADLER) So we've talked about the bank side.
25 Let's talk about the debtor's side, the Magness Defendants'

1 side.

2 In your investigation--let's do them one at a time--did
3 you find any emails the subject of which was the Magness
4 Defendants discussing or planning how they would ever repay
5 these loans to the bank? Did you find any evidence like that?

6 A. No, I did not.

7 Q. In all of your investigation, and let's include the
8 meeting minutes -- and we've seen meeting minutes from
9 December 5, which is the first one after these loans come out.
10 Let's focus on that for a minute. In that document, the
11 December 5 meeting minutes, is there any discussion in that
12 document about the Magness Defendants saying, Where are we
13 going to get the cash? How are we going get the cash to pay
14 off these loans? Anything like that?

15 A. No. In those meeting minutes I think they're worried
16 about paying it back, but it's not to SIB.

17 Q. Well, and let's just -- you looked at that document as
18 part of your investigation, didn't you?

19 A. I did.

20 MR. SADLER: Let's look at 384. And let's look at
21 paragraph 4, the one that rolls off onto both pages. Now we
22 have both pieces.

23 Q. (BY MR. SADLER) Now we can all see the words on the
24 page, but help us if we're missing something.

25 Is there any report in the December 5 meeting minutes,

1 the minutes of the meeting, the first meeting they had after
2 they got the cash, is there any report of any discussion of
3 paying back the loans to the bank as they had promised to do?

4 A. No., There's nothing in here that refers to that.

5 Q. Now, there is a reference in the very last sentence--and
6 Mr. Sutton just got through testifying about this--there's a
7 reference to repaying 25 million if the bank went into
8 receivership. Do you see that?

9 A. I do, yes.

10 Q. And just to be clear, since you've been part of this, as
11 of December 5, 2008, was there anything out in the public
12 about Stanford International Bank on the verge of, worried
13 about, might go into receivership, anything like that?

14 A. No, nothing at that time.

15 Q. In fact, if there was some testimony in this case about
16 the famous Madoff Ponzi scheme that broke open in December, if
17 we're talking about December 5 when this meeting is taking
18 place, is there anything out in the public about Madoff and
19 Ponzi schemes and trustees and that for the Madoff case?

20 A. No. The Madoff case broke December 11th, so it was after
21 this meeting.

22 Q. So to be clear, whether we're talking about meeting
23 minutes, letters, emails, any kind of Magness Defendant
24 document, were you able to find in your investigation,
25 reviewing all the discovery materials, any document, any

1 document that shed light on the Magness Defendants paying back
2 the bank with cash as they had promised to do?

3 A. No. There's nothing that I've seen.

4 MR. SADLER: Let's take that down.

5 Q. (BY MR. SADLER) Now, I now want to understand if there
6 is significance, the significance of the fact that these
7 loans, these fraudulent transfers, came out in kind of two
8 stages. We had the 25 million followed then by the other
9 three, so that's what I want to focus on now.

10 What was the advantage, if there was one, to structuring
11 the transaction in that way--that is, take out the interest
12 and then take out the other loans? What was the advantage of
13 doing that?

14 A. Well, the advantage to the Magness Defendants is -- well,
15 first of all, they get the cash out. But second of all, if
16 you look at taking one loan, 80 percent of the 102.6, they
17 would have received around \$82 million. By taking out 100
18 percent of the interest, the 25 million, and then 80 percent
19 of the balance, they actually were able to take out \$88.2
20 million. So by doing it in the way that they did it, they
21 were able to remove \$6 million more from the bank.

22 Q. And the facts and circumstances that we have discussed
23 here over the last couple of hours concerning how the
24 redemption started, how the loans started, how they were
25 negotiated, are these the facts that you cite to in support of

1 the conclusion you told us to begin with that these aren't
2 really real loans; they were just pretext?

3 A. Yes. All of this information about how they were
4 received, how they structured it, the promises of payment that
5 didn't happen, all of this information is support for that
6 opinion.

7 Q. And to help us understand, because you've just talked
8 about from the Magness side what the advantage of. Let's flip
9 it around and talk about from the bank's side.

10 In this time frame, given everything that was going on
11 with the bank, what was the advantage to the bank of
12 structuring it this way if the problem they were having was
13 this, I need to keep the CD on my balance sheet problem? Help
14 us understand that.

15 A. Well, from the bank's perspective, if they had done a
16 redemption, \$102.6 million would have gone out, they reduced
17 their liability, and they reduced the cash and that's gone.
18 Nothing's coming back. By doing the loan, they at least have
19 a loan on their books for the amount. And they've been able
20 to save that 20 percent. There's 20 percent that still
21 remains in the bank. So when you're in the kind of cash
22 position that they're in, as you saw, that amount is available
23 to the bank. So it allowed them to do that, and keep their
24 single largest investor happy so that they do not expose the
25 Ponzi scheme.

1 Q. All right. We've talked about a lot of information, some
2 of it public, some of it private, and I want to focus our
3 attention on that for just a moment, and I want to discuss
4 these very specifically, to be absolutely clear. And all of
5 my questions deal with the time frame that the Magness
6 Defendants were taking out these loans, these fraudulent
7 transfers in October 2008.

8 With respect to that time frame, was there anything out
9 in the public about the fact that the bank was having trouble
10 with its balance sheet and was limiting redemptions in any
11 way?

12 A. No; quite the opposite. It was continuing to say that it
13 was healthy and had liquidity, strong financial position.

14 Q. And with respect to the story that the bank had been
15 telling forever--That the market may be doing, you know, this,
16 we are Steady Eddie, the market may be doing that, we're
17 Steady Eddie--was there any information they put out in the
18 public different from that that said, You know, what? That
19 diversified portfolio we really are tied to the market.
20 Anything out in the public like that?

21 A. No. They did not release anything different than they
22 had done in the past about their globally-diversified
23 portfolio.

24 Q. Was there any information the bank had put out in the
25 public time frame that it had to dip into reserves to fund

1 loan requests, redemptions, things like that?

2 A. No. I have not seen anything that was produced to the
3 public in that regard.

4 Q. And I want to be absolutely clear about this. With
5 regard to things that they put out with the public in this
6 October time frame, have they now started telling people, We
7 are just like a hedge fund, we are borrowing money to make
8 money, we're like a Swiss bank model? Were they telling the
9 public anything like that in this time frame?

10 A. No, not in October, or actually not at any time frame.

11 Q. All of this information we've just now talked about, if
12 that information had been made available to the public in this
13 October time frame, what effect would that have had on the
14 operations of the bank?

15 MR. PETRIE: Objection; foundation, speculation,
16 undisclosed opinion.

17 THE COURT: Overruled.

18 THE WITNESS: Well, as I said before, we know what
19 happened when they did start disclosing some items, and I
20 think that there would have been a run on the bank. Actually
21 Mr. Bell said this--the investors would have head for the exit
22 doors.

23 Q. (BY MR. SADLER) All right. Last topic. You were here
24 when Mr. Magness testified about the tax returns that he filed
25 and were filed for the trust. You were here for that

1 testimony?

2 A. I was, yes.

3 MR. SADLER: Let's put up Plaintiff's Exhibit 483,
4 if we could.

5 MR. PETRIE: Excuse me, Your Honor. There's been no
6 disclosure for this witness on anything having to do with this
7 topic.

8 MR. SADLER: Your Honor, this is testimony that the
9 witness has observed --

10 MR. PETRIE: May we approach?

11 (Discussion at the bench, out of the hearing of the
12 reporter.)

13 MR. SADLER: I think we were about to go to 483.
14 Yes, 483.

15 Q. (BY MR. SADLER) Ms. Van Tassel, it may be easier -- you
16 have it on your screen. But this is the tax document that was
17 discussed in Mr. Magness' testimony, and there's some factual
18 information related to the bank I need to ask you about.

19 A. Okay.

20 MR. SADLER: Let's go, just so we know what we're
21 talking about, the next page of this document. Blow up the
22 top.

23 Q. (BY MR. SADLER) So this is Mr. Gary Magness's income tax
24 return for the tax year 2008. Are you able to see that on
25 your screen?

1 A. I am, yes.

2 MR. SADLER: Okay. Let's now go to the next page.

3 Q. (BY MR. SADLER) And just confirm this is his client
4 copy. Same document. You were able to see the document when
5 it was displayed earlier in trial?

6 A. Yes.

7 Q. Okay.

8 MR. SADLER: Now let's go to the next page. And
9 here, let's just blow all that up.

10 Q. (BY MR. SADLER) This document contains some factual
11 statements related to the bank that I need to ask you about.

12 A. Okay.

13 Q. So, first of all, it starts at the top, Taxpayer--in this
14 case Mr. Magness--invested in Stanford CDs in 2004 and 2005.
15 And from your investigation, is that accurate information?

16 A. Yes. That's correct. That's when they invested.

17 Q. And then it goes on to talk about, The amount of the CDs
18 was 15 million and 9 million. And, again, from the records
19 you've looked at is that all accurate information?

20 A. Yes. For those entities that is the correct amount--\$15
21 million for GMAG and \$9 million for Magness Securities.

22 Q. And now it talks about, In October 2008, the taxpayer
23 received funds from Stanford as a loan secured by the CDs. Is
24 that what we've been talking about today? Did that happen?

25 A. Yes. That's correct.

1 Q. All right. Let's skip over this next sentence, and we'll
2 come back to it. It says, then, about these loans, Stanford
3 agreed to apply the outstanding accrued interest of eight plus
4 million to pay off the loan.

5 My question is, when they're talking about applying
6 accrued interest, is that what we talked about just ten
7 minutes ago where on Friday they were going to sell stock and
8 pay it back, but then the next week they said, No, no. Let's
9 just use the interest? Is that the same thing?

10 A. Yes. This is in regards to that interest portion only,
11 that roughly \$25 million, and so that relates to that
12 transaction.

13 Q. And then it talks here an investigation of Stanford which
14 was active in 2008. Do you see that?

15 A. Yes.

16 Q. Was there an active SEC investigation ongoing in 2008?

17 A. Yes.

18 Q. There's a statement that the taxpayer was concerned that
19 his CD principal was in jeopardy. Do you see that?

20 A. Yes. That's correct.

21 Q. The taxpayer being Mr. Magness.

22 A. Yes.

23 Q. From the facts we've discussed today, the information
24 that was presented to the Magness Defendants about the balance
25 sheet, you can't redeem, we can only loan you this amount of

1 money, we can't really explain how we're doing what we're
2 doing, would those facts be of concern to someone in that
3 position?

4 MR. PETRIE: Same objections, and speculation.

5 THE COURT: Sustained.

6 MR. SADLER: All right. Let's take that document
7 down. Let's put up Volume 2, page 184, which is Mr. Magness'
8 testimony. And I want to focus on line 13 to 18.

9 Q. (BY MR. SADLER) This was my question to Mr. Magness,
10 Ms. Van Tassel. Were you here for that?

11 A. I was, yes.

12 Q. The question I asked was, "You had no idea anything was
13 wrong." Wrong meaning about the bank. And you see his
14 answer?

15 A. Yes. "Correct."

16 Q. And I premised it up until the moment of Madoff. Madoff
17 was not until December 11th?

18 A. December 11th, yes.

19 Q. So did you understand Mr. Magness to be saying that, At
20 least up until December 11th I had no concern about the bank
21 whatsoever?

22 A. Yes. That's what that says to me.

23 MR. SADLER: Let's now put up Mr. Knudson's
24 testimony. That's at Volume 3, trial transcript, 228.

25 Q. (BY MR. SADLER) Mr. Knudson was asked a similar

1 question, but this time zeroing in on October. And he says,
2 "We didn't have any concerns about Stanford." Do you see
3 that?

4 A. I do, yes.

5 Q. From the facts that you have examined with respect to
6 this case, if we're talking about October 2008, were there
7 suspicious facts and circumstances, red flags, about the bank
8 right in front of the Magness Defendants as of October 2008?

9 A. Yes.

10 Q. Do you know of a way -- well, let me ask this. In your
11 investigation, did you find an explanation, did you find an
12 explanation for how the Magness Defendants were not concerned
13 about Stanford in October 2008, but in a document they said
14 they were concerned about the bank in October 2008?

15 MR. PETRIE: Object to the form. There's no
16 foundation.

17 THE COURT: Overruled.

18 THE WITNESS: No., I haven't seen anything, and I
19 don't know how you could reconcile those. It would seem to me
20 that you are either concerned in October or you are not. And
21 those two are inconsistent.

22 Q. (BY MR. SADLER) And very, very last question. We looked
23 at a word and I asked Mr. Magness about this word. The word
24 is jeopardy.

25 A. Yes.

1 Q. Do you understand what the word jeopardy means?

2 A. I do.

3 Q. Tell the jury your understanding of the word jeopardy.

4 MR. PETRIE: Objection to form, no foundation,
5 undisclosed.

6 THE COURT: If you can clarify that this is
7 something within the expertise of a forensic accountant.

8 MR. SADLER: Your Honor, I think -- I think we've
9 had enough. I will pass the witness.

10 MR. PETRIE: May I proceed?

11 THE COURT: Please.

12 MR. PETRIE: Thank you, Your Honor.

13 CROSS EXAMINATION

14 By Mr. Petrie:

15 Q. Ms. Van Tassel, I want to talk to you a little bit about
16 this investigation. You've been undertaking this
17 investigation in some way, shape, or form since February of
18 '09. Right?

19 A. Yes. February 17th.

20 Q. And one of the things you've found in your investigation
21 was that Mr. Stanford, Mr. Davis, and Ms. Pendergest-Holt
22 distributed misinformation to the financial advisors. Right?

23 A. Yes.

24 Q. You found that the misinformation they distributed to the
25 financial advisors related to--and I'm going to give you a

1 list one at a time, and if I lose you please let me
2 know--first of all, as regarding Stanford International Bank's
3 financial strength. They provided misinformation to the FAs
4 about that. Right?

5 A. They did.

6 Q. And they provided misinformation to the FAs about the
7 profitability of the bank. Correct?

8 A. Yes.

9 Q. They provided misinformation to the FAs about the
10 capitalization of the bank. Right?

11 A. They did.

12 Q. They provided misinformation to the FAs about the
13 investment strategy of the bank. Right?

14 A. They did.

15 Q. Provided misinformation to the FAs about the investment
16 allocations of the bank.

17 A. I think they were fairly clear about what they purported
18 the allocations to be.

19 Q. Okay. Why don't you look in--and I apologize--that
20 enormous white binder, so don't pull a rotator cuff moving
21 that. And if you could, ma'am, would you please look under
22 the tab for the declaration here that's dated May 24th, 2010.
23 And let me know when you found that, if you would.

24 A. Found it.

25 Q. Okay. That's a declaration you submitted to this Court.

1 Is that right?

2 A. Yes, I did.

3 Q. You submitted to this Court under penalties of perjury.

4 Correct?

5 A. Yes.

6 Q. Now, if you could look at paragraph 11 of your
7 declaration submitted under penalties of perjury, please.

8 Excuse me. I misrouted you. If you could look at paragraph
9 16 instead. I apologize. Have you got 16 on page 8?

10 A. I do.

11 Q. Do you see there's a statement there that you made to
12 this Court about misinformation that was regularly
13 disseminated from Stanford, Davis, Holt, and others? Do you
14 see that reference?

15 A. I do.

16 Q. Do you see that included among that misinformation was
17 investment allocation, second line of paragraph 16?

18 A. That's true.

19 Q. Okay. Among the other -- you can set that aside, or put
20 it away if it's in your way.

21 One of the other things that these three folks
22 misinformed the FAs about was the value of the bank's
23 investment portfolio. Right?

24 A. Yes.

25 Q. And there were other matters, too. You didn't limit it

1 to just the ones I've ran through. Correct? That they
2 misinformed the financial advisors about.

3 A. I don't know if there were more, but they would be listed
4 in my declaration if they are.

5 Q. Let's look at the declaration. Do you still have that
6 handy?

7 A. Yes.

8 Q. Why don't you go back to paragraph 16 on page 8, please.
9 Just let me know when you get there.

10 A. Okay. I'm here.

11 Q. Okay. Paragraph 16, after the list of the items we just
12 went through, you state "and other matters as being things
13 that were regularly disseminated to the financial advisors as
14 misinformation."

15 A. Yes, that is included in here.

16 Q. Now, in that context, by the way, when you talk about the
17 and others, you don't include, you do not include Mr. Espy in
18 the and others. Right?

19 A. I think I'm talking about matters, not individuals there.

20 Q. Well, you also say in paragraph 16 that Stanford, Davis,
21 Holt, and others working under them. Right?

22 A. So that's a different part of the paragraph? Is that
23 what you're saying?

24 Q. It's part of the same paragraph.

25 A. Okay.

1 Q. So now we're looking at who's doing the misinformation or
2 spreading the misinformation. You say Stanford, Davis, Holt,
3 and others. Correct?

4 A. That's correct.

5 Q. The and others does not include Mr. Espy. Right?

6 A. Not in this context, no.

7 Q. Now, you spoke to us some in response to questions from
8 Mr. Sadler about this tipping point concept where
9 essentially--and correct me if I misparaphrase your
10 response--that the amount of money coming in no longer was
11 enough to be -- to cover the amount that was supposed to be
12 going out.

13 A. That was going out, yes.

14 Q. Okay. And that was something that you found was -- that
15 tipping point hit, or was reached I guess maybe is a better
16 way to phrase it, in October of 2008. Right?

17 A. Yes. That point where the amounts that were going out
18 exceeded the amounts coming in from investors.

19 Q. Okay. And let's look at your chart that you showed us.
20 Okay?

21 A. Okay.

22 Q. And it will come up on your screen, or you can look at
23 the big screen, whatever's the easiest for you.

24 And one of the things you told us was that the burn rate
25 on cash at the bank was \$30 million a month. Right?

1 A. Generally, yes.

2 Q. Okay.

3 A. Well, no. Just to be clear, that was for all of the
4 entities; just the Stanford entities in general.

5 Q. The Stanford enterprise in total?

6 A. Yes.

7 Q. Okay. But the source of money for the Stanford
8 enterprise was the CDs. Correct?

9 A. For the most part; not completely, but for the most part
10 it was, yes.

11 Q. But well over 95 percent of the cash coming into that
12 business came from the sales of these CDs. Correct?

13 A. That would probably be about right.

14 Q. Okay. So let me get out of the way here.

15 I took your number from the start of October and backed
16 out the \$30 million, just as a round number, for what the
17 expenses -- as Mr. Sadler said, keeping the lights on,
18 salaries, et cetera. Right?

19 A. Okay.

20 Q. Okay. And then that same month you also have the
21 deductions for the monies loaned to the Magness Defendants.
22 Right?

23 A. Yes.

24 Q. So we back out another 88.2 million. Correct?

25 A. That is correct.

1 Q. So that leaves us \$292 million of unaccounted-for
2 withdrawals that you can't peg to being Magness money. Right?

3 A. Not to my knowledge, no.

4 Q. And then what I did here was I backed out the 64 million
5 end-point to look at what the total outflow not attributable
6 to the Magness parties' loans would have been over this month.
7 And do you see it comes out to \$227 million?

8 A. Yes.

9 Q. Okay. And that is other people coming in and either
10 doing a redemption, taking a loan, pulling out interest and
11 whatever timing program they were on. Right?

12 A. Or other transfers or expenditures that might have
13 occurred during that month, yes.

14 Q. Okay. Now, in terms of what's going on in October, your
15 team did not go in on a one-by-one basis and look at the
16 people redeeming money in that month, other than the Magness
17 parties, to attempt to see what the reason was for their
18 redemption. Right?

19 A. Not for each one. We have through our investigation, of
20 course, looked at outflows from October. As I said, when we
21 start the investigation, we go to those points closest to the
22 time, so we have looked at others.

23 Q. Okay. And my question was, you haven't gone through and
24 looked at every redemption that took place in the month of
25 October to attempt to identify what the reason was for that

1 redemption. Correct?

2 A. No, I have not.

3 Q. Okay. And, likewise, during the same time, to the extent
4 there were other loans in this range, you've not gone through
5 and looked at those other loans and attempted to see how those
6 loans were arranged. Correct?

7 A. No, I've not done that.

8 Q. Okay. And as to those other loans, you do not know, for
9 example, whether somebody came in and said, I'd like to
10 redeem, but instead ended up getting a loan instead of a
11 redemption. Correct?

12 A. No, I don't know that.

13 Q. Now, you also mentioned in response to Mr. Sadler's
14 question that the loans to the Magness parties were the
15 largest loans. Right?

16 A. Yes.

17 Q. Okay. And you said the next largest loan was--and
18 correct me if I misheard--9 or 9.2 million, somewhere in that
19 range?

20 A. And just to be clear, that's over the period of 2007
21 through the Receivership in 2009. During that period of time,
22 the next largest loan was -- I think it's 9.4, something like
23 that; just over 9.

24 Q. Okay. So somewhere between nine and nine and a half. Is
25 that fair?

1 A. I believe that is true.

2 Q. Okay. And you also told us that the Magness parties were
3 the largest depositor. Correct?

4 A. U.S. depositor, yes.

5 Q. And the next largest U.S. depositor, there's quite a
6 scaling off. They come down into the 10, \$12 million range.
7 Right?

8 A. I know that there are I think 30 over 10 million, so I
9 don't know what the next dropoff is.

10 Q. You know that there is nobody is even close in terms of
11 being close to \$79 million of deposits. Right?

12 A. I don't believe so, no.

13 Q. Now, you also looked at the marketing brochure that
14 counsel showed you. And he showed you -- I'll use his number
15 so that I'm not confusing by using the same document with a
16 different number.

17 MR. PETRIE: Let's look at 492, please.

18 Q. (BY MR. PETRIE) You remember discussing this with
19 Mr. Sadler. Right?

20 A. Yes, I do.

21 Q. And one of the things you LOOKED at was the statement on
22 page 5 of this document that talks about liquidity. Do you
23 recall that?

24 A. I do.

25 Q. And you told us--correct me if I'm mistaken--and I'm just

1 paraphrasing--that these types of statements were things that
2 are -- were commonly made by banks, at least in this time
3 frame.

4 A. Commonly made by SIB at this time, in these time frames.

5 Q. Okay. And would you agree with me that these are the
6 types of statements that are frequently made by financial
7 institutions about the nature of their portfolio?

8 A. Are you talking about commercial banks?

9 Q. No, I'm talking about financial institutions who invest
10 in the similar types of things, like securities, and saying
11 they have a well-diversified portfolio of highly marketable,
12 blah, blah, blah. That's a fairly common statement in your
13 experience, is it not?

14 A. It is. That kind of representation about, at a very
15 general level, the portfolio, yes.

16 Q. Now, when you looked at that statement, one of the first
17 things you determined is after reading that statement and the
18 similar statements about -- that appear in other SIB
19 materials, you looked at that and said SIB purported to
20 function like a hedge fund. Isn't that right?

21 A. No.

22 Q. Would you look at your affidavit again, please? Again,
23 the May 24th one. If you can find that in the big white
24 binder for us, please.

25 A. Uh-huh.

1 Q. And if you would, the affidavit provided to this Court,
2 look at paragraph 12, it begins at page 5. And it is a fairly
3 lengthy paragraph.

4 A. Yes.

5 Q. It carries over to perhaps two thirds of the next page as
6 well. Do you see that?

7 A. Yes.

8 Q. And let's -- looking at this, if you would look at the
9 top of the next page, please, page 6 of the affidavit you
10 provided this Court.

11 A. That's correct, yes.

12 Q. And you see it begins and it -- I don't want to take it
13 out of context. The tail, or maybe it's the nose, on the
14 preceding page says "According to the brochure." Right?

15 A. Yes.

16 Q. The very bottom. And it goes on to say, "SIB was able to
17 pay high CD rates by investing in, 'a well-diversified
18 portfolio of highly marketable securities issued by stable
19 governments, strong multinational companies, and major
20 international banks.'"

21 A. Yes.

22 Q. Right?

23 A. Uh-huh.

24 Q. You then go on to say, "As a result, the brochure
25 continues" -- in other words, you are saying this is what the

1 piece of paper says. Right?

2 A. Uh-huh. Yes.

3 Q. You go on to say, "The brochure continues, 'SIB'--you
4 inserted that for frame of reference--"'has been consistently
5 profitable since inception.'" Right?

6 A. That's what SIB is saying.

7 Q. Yes. And then you go on to say -- This is not what SIB
8 is saying. You say, "In other words"--and I'm quoting--"SIB
9 purported to function like a hedge fund. But, unlike a hedge
10 fund, it's customers were guaranteed by SIB a specified return
11 regardless of the fund's performance." That's what you told
12 this Court in May of 2010. Correct?

13 A. Correct. Your question was whether -- what was the first
14 thing I thought of when I said that. This is in May 24th,
15 2010. That's why I didn't think about this declaration.

16 Q. That is what you said May 24th, isn't it, of 2010?

17 A. It is. Not the first thing I thought of.

18 Q. Now, in part of your investigation, you did not look at
19 what returns might be for a hedge fund that was doing business
20 in the same environment. Correct?

21 A. No, I did not.

22 Q. And you were in the courtroom when Mr. Wilk testified.
23 Right?

24 A. Yes.

25 Q. And you heard Mr. Wilk's testimony about note products

1 that had a similar structure that was a promissory note from a
2 financial institution and then investments underlying that
3 note?

4 A. I do.

5 Q. And you heard him refer specifically to two institutions.
6 Right?

7 A. I think -- I don't remember the institutions, but I know
8 he did refer to some.

9 Q. You know he referred to Credit Suisse. Right?

10 A. I don't recall the institutions, but I -- that makes
11 sense.

12 Q. You don't remember hearing that last week?

13 A. No. I remember the subject of the testimony. I don't
14 remember the institutions.

15 Q. Do you remember that he talked about UBS?

16 A. That sounds familiar.

17 Q. And you know UBS is Union Bank of Switzerland. At least
18 it used to be. It shortened its name. Right?

19 A. It is.

20 Q. Now, I'm going to bounce around a bit, so I apologize.
21 If I lose you, please sing out.

22 A. I will.

23 Q. Thank you.

24 You started out by telling us -- telling Mr. Sadler your
25 background, and I just want to touch on some of these things.

1 You mentioned that--and I think the number you used was
2 15--that you had ban proved or accepted as an expert in 15
3 different court decisions. Did I have the number right?

4 A. I believe that's correct. But those are court decisions
5 that refer to my opinions. That's what it was referring to.

6 Q. And those are Stanford-related matters. Correct?

7 A. That's correct.

8 Q. None of those have anything to do with the Magness loans.
9 Correct?

10 A. I don't know if they did. At one time Magness was part
11 of another case, and that may be part of this. I don't know.

12 MR. SADLER: This is part of Your Honor's order on
13 the limine items.

14 THE COURT: Overruled.

15 Q. (BY MR. PETRIE) You also mentioned that you, in the
16 context of information you looked at, had read Mr. Davis' plea
17 agreement. Right?

18 A. I had.

19 Q. And I believe you told us you had attended his -- a
20 hearing on his plea agreement as well?

21 A. No. I read the transcript from the hearing of the plea
22 agreement.

23 Q. I apologize. I had that mistaken.

24 You did attend the piece of Mr. Stanford's trial at which
25 Mr. Davis testified. Correct?

1 A. I did, yes.

2 Q. No testimony about Mr. Magness or these loans. Correct?

3 A. No.

4 Q. And in Mr. Stanford's trial there was no testimony about
5 Mr. Magness or these loans. Correct?

6 A. No, not that I recall.

7 Q. Now, we've heard some about their troubles. You also
8 mentioned, however, that you had testified, and I believe you
9 told us you testified in front of the Securities and Exchange
10 Commission or the SEC with reference to four individuals. Do
11 I have that right?

12 A. I don't think it of that that way. I was actually
13 retained by the SEC to testify at an administrative hearing.

14 Q. Okay. And that administrative hearing was before an
15 administrative law judge at the SEC. Correct?

16 A. I know it's an administrative law judge. I don't know
17 the particulars, but yes.

18 Q. And you know that the result of that proceeding -- that's
19 a civil case.

20 A. Yes, it is it's not criminal.

21 Q. Right. And so there's no convictions that result from
22 that. Correct?

23 A. No. They were just found guilty of securities fraud.

24 Q. Well, you understand that when you're in a civil
25 proceeding you're not found guilty of anything; you are found

1 liable. Is that right?

2 A. Okay. They were found liable.

3 Q. Now, in terms --

4 MR. PETRIE: If we can go back to 492, please.

5 Q. (BY MR. PETRIE) You talked with Mr. Sadler about this
6 piece of marketing material as being public information.

7 Correct?

8 A. That's correct.

9 Q. You don't have any facts that this specific item was ever
10 provided to any of the Magness parties. Isn't that right?

11 A. No, I don't.

12 Q. Okay.

13 A. Not that I recall.

14 Q. Now, in terms of the information that's contained in
15 here, your understanding is that this particular document was
16 used for the set-aside marketing, but for the sale of the SIB
17 certificates. Right?

18 A. Yes, that would be how it would be used.

19 Q. And the sales force for the SIB certificates was the
20 various financial advisors who worked at the Stanford Group
21 Companies. Right?

22 A. Only in the U.S. They had other brokers and companies in
23 other parts of the world.

24 Q. Well, since we're in the U.S., I'm going the stick in the
25 U.S.

1 A. Okay.

2 Q. So in terms of sales to people in the U.S., folks like
3 the Magness parties, the sales force of those financial
4 advisors at SGC. Right?

5 A. Yes. That's correct.

6 Q. And all of those people, because they work for a
7 broker-dealer in the United States, are monitored, regulated
8 by the Securities and Exchange Commission. Correct?

9 A. You know, from a legal perspective I don't know if the
10 brokerage is monitored or each individual. They certainly are
11 subject to the SEC.

12 Q. Okay. The individuals and the brokerage. Right?

13 A. I know the brokerage is, and I presume the financial
14 advisors.

15 Q. And you understand that these types of public materials
16 are things that get reviewed by the SEC. Correct?

17 A. I don't know that.

18 Q. Well, you looked at the Office of Inspector General
19 report that dealt with the SEC activities with respect to
20 Stanford. Right?

21 A. I did. And they did reference marketing materials.

22 Q. Okay. And in that very lengthy report is the source of
23 the information you have that the SEC was investigating
24 Stanford for sometime in the late 1990s. Right?

25 A. Well, from the 1990s, yes.

1 Q. Yes, ma'am. You heard Mr. Janvey testify to that.

2 Right?

3 A. I did. Well, actually I read that in the transcript. I
4 was gone during that period of time.

5 Q. I see. That was Friday afternoon after you had had to
6 leave.

7 A. Yes.

8 Q. Thank you.

9 And you understood that the SEC didn't take any action to
10 shut Stanford down for at least until this point you've
11 already talked to us about in February of 2009. Right?

12 A. That's correct.

13 Q. Now, in terms of the other information you looked at, you
14 also discussed with Mr. Sadler the two charts that appear in
15 this public piece, the one that showed -- and I'll ask Austin
16 to pull them up, but it's the one that showed, first of all,
17 the comparison of CD rates, and then there's also the one that
18 essentially shows the differing amounts by which your deposit
19 would increase if you put it in different places. Do you
20 remember that?

21 A. I do, yes.

22 Q. Okay.

23 A. We went through that.

24 Q. And this is the first chart you went through with

25 Mr. Sadler. This is the one that says this is what a U.S. CD

1 rate was in any given year compared to what is a Stanford
2 International Bank CD rate was. Correct?

3 A. Right.

4 Q. And these are the face rates; not the yield rates.
5 Right?

6 A. Yes, these are face rates.

7 Q. And then the second chart you looked at in this
8 progression here, and we'll blow it up so we don't create
9 eyestrain for everybody, that's the seconds one you discussed
10 with Mr. Sadler that shows if you put it in a U.S. bank you
11 get about a million and a half dollars; if you put it in
12 Stanford International Bank, same term, you get something like
13 2.2. Right?

14 A. That's correct, yes.

15 Q. All of this information was in the public domain.
16 Correct?

17 A. It was.

18 Q. All of this information was available to the Securities
19 and Exchange Commission. Right?

20 A. I would presume, yes.

21 Q. I want to jump forward a little bit and talk to you about
22 your testimony about Plaintiff's Exhibit 62, which is the set
23 of minutes from the March '08 investment committee meeting.

24 A. Okay.

25 Q. And we'll pull it up on the screen, or it's in your

1 binder. Whatever's the easiest way for you to look at it?

2 A. I'll look at the screen, unless I have any problems with
3 it.

4 Q. Okay. If you have problems, just sing out.

5 A. Okay.

6 Q. And what I'd like to do is just focus on the third page
7 of the document, which is the second page of the minutes, and
8 look at that paragraph that you were discussing with
9 Mr. Sadler. Okay?

10 A. Yes.

11 Q. This is the paragraph you discussed with him. Right?

12 A. Yes. This is one of them.

13 Q. Okay. And what he did was he then pulled out specific
14 things of which he wanted to look--catch phrases. Do you
15 recall that?

16 A. That's correct.

17 Q. Well, let's look at the full context. Okay?

18 A. Sure.

19 Q. And in particular, let's look at Mr. Rodriguez's comment
20 about the Swiss bank model.

21 MR. PETRIE: Let's look at the full sentence,
22 please.

23 Q. (BY MR. PETRIE) And what he said there--and we've looked
24 at this frequently during the course of the trial--was he was
25 comparing this Swiss bank model to a traditionally United

1 States commercial bank that invests in loans. Right?

2 A. Yes.

3 Q. And the public pieces that you've seen from Stanford
4 International Bank touted the fact that the bank did not make
5 commercial loans. Right?

6 A. It did, yes.

7 Q. It touted the fact that the only loans the bank made were
8 these things that they refer to as being cash secured loans.
9 Right?

10 A. Yes. That was to be to the CD investors at 80 percent of
11 the CDs.

12 Q. Okay. And they said, That's the only loans we make and
13 that's how we manage our credit risk. Correct?

14 A. That's correct.

15 Q. And the bank public materials also made quite clear that
16 with the deposits, because it wasn't making loans, the bank
17 was out investing that in, and then it gave those four
18 categories for investments. Correct?

19 A. The globally diversified portfolio, and it went on to
20 list --

21 Q. And then you remember there's a pie chart that says, We
22 do alternative, we do equities, et cetera?

23 A. I think there may be more than four parts, but I -- it is
24 a pie chart that shows the allocation of how they invest.

25 Q. And you saw those types of disclosures repeatedly with

1 public information. Correct?

2 A. They are, yes.

3 Q. Okay. Then you also discussed with Mr. Sadler this
4 concept in the next paragraph where he talks about this
5 leverage concept. And Mr. Rodriguez says there that the bank
6 can leverage the portfolio by a factor of 15 percent. Do you
7 see that reference?

8 A. I do.

9 Q. He doesn't, according to this report at least, say the
10 bank has leveraged the portfolio. Right?

11 A. That's true.

12 Q. This is aspirational rather than reporting something
13 that's already happened. Correct?

14 A. I guess you can read it that way. Correct.

15 Q. Well, there's no way to read that to say the bank has
16 already done that, can you?

17 A. No. That's true.

18 Q. Then you also discussed with Mr. Sadler the next
19 sentence. And let's focus just on the first clause, please.
20 Remember he pulled out the phrase hedge fund. Remember that?

21 A. Yes.

22 Q. Okay. What Mr. Rodriguez said was that the investment
23 has some characteristics of a hedge fund. Right?

24 A. Yes. That's what it says.

25 Q. He doesn't say we are operating like a hedge fund. He

1 says we have some characteristics that are like a hedge fund.

2 A. Yes. That's true.

3 Q. Okay. And he also has characteristics then that are not
4 like a hedge fund. Correct?

5 A. Well, yes. And that's what one of my points was.

6 Q. Your point is it doesn't operate like a hedge fund.

7 A. Well, no. My point is, is that it's inconsistent with
8 the very liquid and it's very inconsistent with how it
9 described itself otherwise.

10 Q. Well, what this provides is that you have a capped
11 investment. In other words, a hedge fund, somebody hits a
12 home run and you could get some sort of staggering recovery.
13 At least maybe in the old days you could have.

14 A. Or you can lose everything.

15 Q. Right. And here what you have is you have a cap on the
16 upside. Correct?

17 A. That's not what this is refers to, but there is a
18 guaranteed rate on the CDs.

19 Q. Right. What you refer to as the stated rate. Right?

20 A. It is the stated rate.

21 Q. Okay. And that's -- no matter what happens, you are
22 never going to get more than that percentage of interest.
23 Correct?

24 A. Not true. I mean, when you roll over -- until that
25 matures, they're not going to change it. Mr. Magness had a

1 different deal, because if somebody else got a higher rate he
2 could get a higher rate. But for most investors that's true.

3 Q. And you understood that for most investors if the
4 interest rate went up during the term of their CD, their
5 interest rate would also ratchet up. Is that right?

6 A. No.

7 Q. Let's look, please --

8 A. They have some that are linked to other CDs or index
9 linked and they can.

10 Q. Let's look at what the bank told people publicly. Let's
11 look at 492 again.

12 MR. PETRIE: And if you could, Austin, please, go to
13 the page towards the back that shows -- it has the chart of
14 the various CD products. That was it. It was there
15 momentarily. Thank you. And if you could blow up just the
16 top portion that deals with the CDs we're talking about here.

17 Q. (BY MR. PETRIE) You understand this is a fixed CD
18 product offered by the bank. At least the eight CDs that the
19 Magness parties had. Correct?

20 A. That's correct, yes.

21 Q. So when we look at these various discussions of the
22 innovative products--that's the bank's term--that it was
23 offering we're in the right place. Correct?

24 A. Yes. That's correct.

25 Q. And if you look over in the key benefits, it says if the

1 base rate goes up, eligible balances receive the higher rate.

2 Do you see that?

3 A. I do.

4 Q. That's for everybody. Right? That's not specific to any
5 particular depositor.

6 A. It says eligible balances, so it's limited in some way.

7 Q. Right. And you don't know what that limitation is.
8 Correct?

9 A. We can look. I think they have a footnote there.

10 Q. Let's look at the footnote, then. What does the footnote
11 tell you about eligible balances?

12 A. I can't tell what that number is.

13 Q. Let me do this. So you don't strain your eyes, because
14 this will do it, let's see if we can pull up 123 and get a
15 little better copy of this document.

16 You are familiar that this is another one of the
17 marketing pieces from the bank. Right?

18 A. It is. Yes.

19 Q. You saw this being flashed around during the previous
20 pieces of the trial. Correct?

21 A. Yes.

22 Q. Let's see if we get a little better visual, so-to-speak,
23 on the chart here. It has the same type of legend. Right?

24 A. It does.

25 Q. We are doing apples to apples on the product. Correct?

1 A. Yes. The fixed CD.

2 Q. Okay. And it says if the rate goes up, eligible balances
3 receive the higher rate. And there's no footnote. Correct?

4 A. Yes. That's correct.

5 Q. Okay. Now, you also mentioned this -- you built into
6 your testimony the incident that Mr. Magness related to the
7 jury about having been in Antigua and seeing these two
8 individuals. You remember that story?

9 A. Yes.

10 Q. Okay. And you recall that Mr. Magness didn't talk to
11 these individuals, whoever they were. Right?

12 A. No, he did not.

13 Q. Right. All he did was say there were two guys there,
14 they had white shirts, skinny ties, and they looked like CIA
15 guys. Right?

16 A. Yes.

17 Q. And someone at the bank told him that they were SEC
18 people. Correct?

19 A. I believe that's true, yes.

20 Q. In other words, he wasn't making some independent
21 assessment. That was part of the spiel that the bank was
22 giving them while he was down there. Right?

23 A. Yes. I said that he was told that the SEC was there.

24 Q. In terms Of your discussion of the loans, you -- remember
25 you pulled up in the materials that Mr. Sadler showed you that

1 interrogatory response? Remember pulling that up?

2 A. Yes.

3 Q. And do you still have Exhibit 20, page 14 somewhere
4 handy?

5 A. Is it in your binder, or should I look --

6 Q. It would be in his binder. Sorry.

7 A. Not a problem. Okay.

8 Q. And the information there that you read it before has
9 several pieces to it. Do you remember the piece you read to
10 us?

11 A. I do.

12 Q. And what that said is Mr. Espy's advice back to the
13 Magness parties was that the loan route was, first, faster.
14 Right?

15 A. Yes, he did say that.

16 Q. And then he went on to say it's easier. Correct?

17 A. Let me find it. I'm sorry. It's kind of buried.

18 Q. Let me know when you find it.

19 A. I'm sorry. What's your question now?

20 Q. It starts out by saying going that loan route is faster.
21 Correct?

22 A. Easier and quicker. Yes.

23 Q. Okay. It's easier. Right?

24 And then he goes on to add the bit about, Oh, and let's
25 us keep a loan asset on our balance sheet. Right?

1 A. That's not what that says. It says, Given the general
2 market decline, SIB wanted to keep the asset value --

3 Q. Okay.

4 A. -- of the CD on the balance sheet.

5 Q. Okay. In other words, don't break the CDs. Keep them on
6 the balance sheet. Right? Or redeem them.

7 A. I'm sorry. I don't understand your question.

8 Q. I will ask you a different one, then.

9 A. Okay.

10 Q. You understood that there was some time urgency to get
11 that money.

12 A. Yes.

13 Q. Okay. And you saw Mr. Espy's email, the internal email
14 that said, We just got a margin call and we need money by 2:00
15 p.m. tomorrow. Right?

16 A. I saw that, yes.

17 Q. Okay. And you haven't gone back and looked at the
18 history of the margin calls to make an up or down vote on
19 whether there's documentary support for that or not. Correct?

20 A. I think that's the one that refers to the fact of this
21 \$10. I'd have to go back and look, but if that's true, that
22 was known before.

23 Q. It's not a question of whether it was known. It was a
24 question of whether it was triggering a need for money. You
25 haven't gone back and looked at that, have you?

1 A. I heard Ms. Dokken's testimony.

2 Q. But you haven't gone back and looked for that, have you?

3 A. For what?

4 Q. For the documentation that would show whether there was,
5 in fact, a margin call that needed to be addressed by 2:00
6 p.m. the following day from the day of Mr. Espy's email.

7 A. No, I have not.

8 Q. And those emails that you looked at with Mr. Sadler where
9 Mr. Espy is going back and forth either Mr. Pacheco or Mr.
10 Rodriguez-Tolentino -- do you remember looking at those?

11 A. I do.

12 Q. You don't have anything that shows those emails being
13 forwarded to anyone of the Magness parties, do you?

14 A. No. There's part of the strings of those emails that
15 refers to the fact that Mr. Magness is okay with this, we'll
16 go with the 18. So there's references to discussions with
17 Mr. Magness with Mr. Espy.

18 Q. Okay. And there's no reference in there to Mr. Espy
19 having reported through to any of the Magness parties this
20 business about checking with treasury and dealing with
21 reserves, is there?

22 A. No.

23 Q. Now, you were in the courtroom to listen to Mr. Espy's
24 videotaped testimony. Right?

25 A. I was, yes.

1 Q. That wasn't the first time you've had an opportunity to
2 look at the testimony. You'd seen his deposition transcript,
3 the actual printed binder things previous to that. Right?

4 A. I have. I'd seen those before.

5 Q. So you had seen Mr. Espy's testimony where -- when
6 Mr. Powers handed him those minutes that dealt with what
7 had gone on in early October, the December 5 minutes. You
8 remember that?

9 A. Did I see those?

10 Q. Do you remember seeing Mr. Espy's testimony where
11 Mr. Powers said, Here's the December 5, 2008 minutes?

12 A. I don't recall it specifically.

13 Q. Do you remember seeing it here?

14 A. Yes, I do.

15 Q. And you remember Mr. Espy saying, I've never seen these
16 before.

17 A. I don't recall that, but that may be.

18 Q. Do you remember Mr. Espy saying, I went in and asked for
19 a loan, irrespective of what that piece of paper says here, is
20 my memory of what happened. Do you remember that?

21 A. I don't recall that, no.

22 Q. Now, you talked some about stock sales?

23 A. About what?

24 Q. Stock sales.

25 A. Yes.

1 Q. In response to questions from Mr. Sadler. And you were
2 talking about what the Magness parties were willing to do to
3 sell stock. Right?

4 A. Well, as they related to the information on the
5 documents, yes.

6 Q. And the information on the documents, did you go back and
7 compare when those sales were taking place to look at what the
8 market price of the stock was?

9 A. Did I do that?

10 Q. Yeah.

11 A. No.

12 Q. Okay. And so the sales, you are trying to compare sales
13 in October -- you know, the price was down in October of
14 Liberty Media. Right?

15 A. I do know that.

16 Q. Okay. And you heard Mr. Bell's testimony about
17 essentially if you started selling down in that type of
18 marketplace, you had that three to one need to sell in order
19 to make your recoveries. Do you remember that?

20 A. I think he had to correct that later that it wouldn't be
21 quite that much, but yes.

22 Q. It was roughly -- it was well over two to one. Right?

23 A. That's fair.

24 Q. Okay. And you understood that that was a tremendous
25 down-side to selling the stock at that point in time, even

1 before we start talking about taxes. Correct?

2 A. Yes, because Mr. Magness didn't want to sell it at a
3 lower price.

4 Q. Now, at the point in time when these loans happened,
5 notwithstanding the back and forth between -- or I should say
6 among Mr. Espy, Mr. Pacheco and Mr. Juan Rodriguez-Tolentino,
7 what we do know is the loans happened; the money went from
8 Stanford International Bank to the Magness parties. Correct?

9 A. Yes, they did.

10 Q. And it went in relatively short order from when the
11 Magness parties submitted the paperwork. Correct?

12 A. Within a few days, yes.

13 Q. And there was no sort of hemming and hawing, at least
14 from the bank to the Magness parties, saying, We don't have
15 the money or we can't give you the money. Right?

16 A. Well, yes; as it related to the discussions with Mr.
17 Espy.

18 Q. Well, Mr. Espy is an employee of Stanford Group
19 Companies. Correct?

20 A. He is, but, as I said, there's information that shows
21 that he was discussing it with Mr. Magness.

22 Q. Yes. And the only information you have that he was
23 discussing with Mr. Magness was that Mr. Magness would be good
24 with an \$18 million loan. Right?

25 A. That is part of the email string, yes.

1 Q. That's the only information you have that you can say
2 that was definitely shared with Mr. Magness. Correct?

3 A. That's true about that string of emails.

4 Q. Okay. And that's the only string of emails you have that
5 shows anything being shared with Mr. Magness about these
6 Pacheco, Rodriguez-Tolentino, Espy conversations. Correct?

7 A. On that day?

8 Q. On any day between those three individuals, or among
9 those three individuals.

10 A. Well, I've only looked at them on that day for this
11 matter, so if there are others I have not seen them.

12 Q. Okay. So we'll limit it to that day. That's the only
13 thing you have. Right?

14 A. That's the only -- that's what refers in those documents
15 to Mr. Magness.

16 Q. Okay. Now, have you gone back and talked some with
17 Mr. Sadler about October 1 and those set of meeting minutes
18 that have the very terse discussion about the CDs simply--I'm
19 loosely paraphrasing--saying, There have been no redemptions?

20 A. That's correct.

21 Q. And have you gone back and looked at what the stock price
22 was on October 1 for the various Liberty stocks?

23 A. I've seen that at one time, and it was certainly brought
24 up on the screen but I don't recall the exact amount.

25 Q. Do you recall generally between October 1 and October 10

1 that there is a precipitous decline in the price of those
2 stocks?

3 A. There is a decline, yes.

4 Q. Well, there was a precipitous decline, wasn't there?

5 A. I don't recall the amounts, but there was a significant
6 decline.

7 THE COURT: I show you at 40 minutes into cross.

8 MR. PETRIE: Thank you, Your Honor.

9 Q. (BY MR. PETRIE) Last topic. You testified to Mr. Sadler
10 this concept that the loans, and I think the phrase you used
11 was preapproved. Do you recall that?

12 A. They are essentially preapproved subject to some
13 paperwork that would have to be done.

14 Q. There is nothing in the materials provided to the Magness
15 parties that advised them that they were preapproved for any
16 sort of loan from Stanford International Bank, is there?

17 A. Well, the materials that I've seen indicate that up to 80
18 percent they can have a loan from -- the CD investors can have
19 a loan collateralized by their CD.

20 Q. Let's go back to my question which is, there's nothing in
21 the paperwork that you've seen that says to the Magness
22 parties, You are preapproved for a loan up to 80 percent of
23 whatever you've deposited in these CDs.

24 A. I believe that's in the public information that's
25 available to all investors.

1 Q. You haven't shown us a single piece of paper that says
2 that, have you?

3 A. No, we did not go through that today.

4 MR. PETRIE: Thank you, Your Honor.

5 MR. SADLER: No further questions, Your Honor.

6 May the witness be excused?

7 THE COURT: Any objection?

8 MR. PETRIE: No. Thank you, Your Honor.

9 THE COURT: Thank you, ma'am. You may step down.

10 MR. SADLER: And the Receiver rests.

11 MR. PETRIE: I have no rebuttal case, Your Honor.

12 No need to.

13 THE COURT: All right. The term we frequently use
14 for that is close, so the Magness parties are closed.

15 MR. PETRIE: Thank you.

16 THE COURT: And the Receiver of necessity then is
17 also closed.

18 Rest and close. Those are such happy words down here.
19 That means we're done with the presentation of evidence.

20 I told you we might let you out a little early. We're
21 not giving you a huge break, but it's a little early. So get
22 a head start on the traffic, have a very pleasant evening, a
23 safe trip home and back. We will see you at 9:00 tomorrow,
24 and we will be ready to start with closing arguments then.

25 (Whereupon, the jury left the courtroom.)

1 By my prior experience, it would not surprise me if the
2 Receiver intends to renew his motion for judgment as a matter
3 of law.

4 MR. SADLER: We do, Your Honor, under Rule 50 renew
5 the motion for the reasons previously stated on the record
6 with regard to the estoppel point and the point that no
7 reasonable jury could find for the Defendants on this
8 evidence. We do renew that motion at this time.

9 THE COURT: Okay. And because it was only a couple
10 of days ago, I recall what you said previously about that and
11 I don't feel any particular need personally for you to
12 reiterate those arguments made orally and in writing.

13 MR. SADLER: Understood. And we will follow up with
14 an appropriate filing, if that's permissible with the Court.

15 THE COURT: That's fine with me.

16 Any objection to that procedure from the Magness parties?

17 MR. PETRIE: I'm not sure what the procedure I'm
18 being asked to agree to. Is it a delayed filing on a brief
19 for something that we need to address --

20 THE COURT: No; that he doesn't have to say
21 everything orally right now; that he can follow it up in
22 writing later today.

23 MR. SADLER: Yes, sir. We are simply renewing our
24 Rule 50 motion on the grounds previously stated. I'm just
25 required to do it at this stage of the proceedings.

1 MR. PETRIE: Well, if we're simply renewing,
2 then there's -- my issue is this, Your Honor. If we're going
3 to get more stuff, then we need to have an opportunity to
4 address it.

5 THE COURT: Okay. Why don't you take a look when
6 they file it and see if you feel a need to say anything
7 further to it. I'm assuming it's just the same grounds that
8 were raised before. And, of course, you are limited to those
9 anyway.

10 MR. SADLER: Understood. We will be citing evidence
11 that came in in our case, but for the reasons previously
12 stated, those two grounds, there's no additional ground.

13 THE COURT: Is that okay with the Magness parties to
14 do it that way?

15 MR. PETRIE: Yes, Your Honor. As long as I have the
16 opportunity to respond --

17 THE COURT: Of course.

18 MR. PETRIE: -- and I hear that I do. So that's
19 fine. Thank you.

20 THE COURT: Okay. I think probably technically you
21 could insist on him making the motion orally right now in
22 full, and that usually is not helpful for me.

23 MR. PETRIE: Well, I understand. And then we start
24 talking about reopening, and it becomes a quagmire.

25 THE COURT: Okay. So here's what I suggest. I

1 suggest that we take about a 15-minute break, and then resume
2 off the record to talk about the charge. Once we're done off
3 the record and I've made whatever changes we agree to or I'm
4 persuaded on, then we'll resume on the record and do the
5 formal charge conference. Is that an okay schedule for
6 you-all?

7 MR. SADLER: Yes, sir.

8 MR. PETRIE: That's fine. Thank you.

9 THE COURT: A little procedural issue. There's a
10 little conference room down here but it's pretty cozy, and I
11 think if we do it down here, probably just need to limit it to
12 maybe two folks per side. We can go upstairs to 15 and I have
13 a larger conference room, if you want to do that. It's your
14 pleasure.

15 MR. PETRIE: Is there any reason why we can't do it
16 off the record in the courtroom where we have a little more
17 space? Other than you're very distant.

18 THE COURT: Yeah. It's just logistically a little
19 harder for me.

20 MR. SADLER: Perhaps we could convene on 15, Your
21 Honor, and then in the larger room. Would that be
22 appropriate?

23 THE COURT: That's fine. Okay. We will see you up
24 there at 5:00.

25 MR. SADLER: Your Honor, is that the hallway just to

1 the left of your courtroom? Is that where we're going? Just
2 remind me.

3 THE COURT: Yes. There's a little button there that
4 will alert somebody, and hopefully somebody will let you in.

5 (Brief recess.)

6 MR. PETRIE: We accept the charge as presented, Your
7 Honor. Thank you.

8 THE COURT: Okay. Good. And I've seen the written
9 objections. Have you-filed that?

10 MR. POWERS: No, Your Honor.

11 THE COURT: Or do you plan to?

12 MR. POWERS: Yes, we will.

13 THE COURT: Then I don't need to hear those over
14 again. I'm satisfied, having reviewed the written ones.

15 MR. POWERS: Okay. Thank you, Your Honor.

16 THE COURT: And anything else from the Receiver?

17 MR. POWERS: Not at this time.

18 MR. SADLER: May we have just one moment, Your
19 Honor?

20 THE COURT: Uh-huh.

21 MR. POWERS: Not at this time, Your Honor. Thank
22 you.

23 THE COURT: Okay. And I think this is clear. It is
24 certainly clear to me, but I made one change where I added the
25 Ponzi scheme language in a different question from what you

1 had it, and I am highly confident that you make the same
2 objection to it there as you did in the other place. And I'll
3 just note, while I certainly agree with you that there are
4 other forms of fraud, I don't think the evidence in this case
5 supports anything other than a Ponzi scheme. And I understand
6 you disagree with that assessment, and that's fine.

7 MR. SADLER: May I ask the Court just one matter?

8 So with respect to Question No. 1, reflecting the
9 discussion we had in chambers, an answer to Question No. 1-A
10 "no" means no good faith by the Magness Defendants. An answer
11 to Question No. 1-A "yes" means yes, they did have good faith.

12 THE COURT: That's my understanding.

13 MR. SADLER: All right, sir.

14 Anything else we need to take up on the record at this
15 time?

16 MR. PETRIE: Not from the Magness parties, Your
17 Honor. Thank you.

18 MR. SADLER: No, sir.

19 THE COURT: Okay. Let's go off the record for just
20 a moment. So barring anything else, we'll see you tomorrow at
21 9:00 in the morning. Have a good evening.

22 (The proceedings were concluded at 5:5 p.m.)

23

24

25

1 I HEREBY CERTIFY THAT THE FOREGOING IS A
2 CORRECT TRANSCRIPT FROM THE RECORD OF
3 PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.
4 I FURTHER CERTIFY THAT THE TRANSCRIPT FEES
5 FORMAT COMPLY WITH THOSE PRESCRIBED BY THE
6 COURT AND THE JUDICIAL CONFERENCE OF THE
7 UNITED STATES.

8
9 S/Shawn McRoberts 01/17/2016

10 _____DATE_____
11 SHAWN McROBERTS, RMR, CRR
12 FEDERAL OFFICIAL COURT REPORTER
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APPENDIX H

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS
 DALLAS DIVISION

3 RALPH S. JANVEY, IN HIS (CAUSE NO. 3:15-CV-401-N
4 CAPACITY AS COURT-APPOINTED)
5 RECEIVER FOR THE STANFORD (
6 INTERNATIONAL BANK, LTD.,)
7 et al., (
8 Plaintiff,)
9 (
10 vs.)
11 (
12 GMAG LLC, MAGNESS SECURITIES)
13 LLC, GARY D. MAGNESS, and (
14 MANGO FIVE FAMILY, INC., IN)
15 ITS CAPACITY AS TRUSTEE FOR (
16 THE GARY D. MAGNESS IRREVOCABLE) DALLAS, TEXAS
17 TRUST, (JANUARY 18, 2017
18 Defendants. (9:00 A.M.

12
13 VOLUME 7

14
15 TRIAL ON THE MERITS
16 BEFORE THE HONORABLE DAVID C. GODBEY
17 UNITED STATES DISTRICT JUDGE
18 and a jury

19
20
21
22 SHAWN M. McROBERTS, RMR, CRR
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1 THE COURT: Be seated.

2 Mr. Sadler.

3 MR. SADLER: Yes, sir. I just wanted to make sure
4 the record is clear. We did file our objections last night to
5 Your Honor's proposed questions and instructions, and we just
6 ask for a ruling on the record with regard to those
7 objections.

8 THE COURT: Except for the ones where I changed it,
9 they're overruled.

10 MR. SADLER: Thank you, Your Honor.

11 THE COURT: That wasn't too bad.

12 They're not quite ready back there, but they will be in
13 just a moment, so we'll get rolling.

14 I think after the Magness parties' opening, we will
15 probably take a short break, because otherwise they've got to
16 sit there for almost two hours, and I think that's a little
17 bit long. So that will break it up a little bit right in the
18 middle.

19 (Whereupon, the jury entered the courtroom.)

20 THE COURT: Be seated.

21 Good morning. How are you-all doing?

22 SEVERAL JURORS: Good.

23 THE COURT: Good. We are ready to get rolling here.

24 Before I start, I want to say a couple of things, not too
25 much because I'm trying to save my voice. I hope I can get

1 through all this. I've taken every symptom reliever I know
2 how to take. So we just hope they work.

3 First thing I want to say is, I know you aren't
4 volunteers. I know you're draftees. You didn't really have
5 much of a choice about whether or not you'd be on the jury.
6 So I do appreciate your service, and I thank you for that, but
7 that really wasn't your choice.

8 What was your choice, though, is your attitude as you
9 went about your service here with us. And you could have
10 chosen to be grumpy and fussy, or you could, and did, in fact,
11 choose to be engaged and have a good attitude, and that makes
12 such a difference. If you-all are grumpy and fussy, the whole
13 courtroom is grumpy and fussy. But when you have a good
14 cheerful attitude about your work, the whole courtroom has a
15 good cheerful attitude. And as I say, that's something that
16 you had a choice about, and you chose to do your service in a
17 very positive way. And I really appreciate that.

18 I want to say just briefly--and I'll keep this really
19 short--these are pretty good lawyers. You guys are not down
20 here all the time. These are the A-team lawyers. They're
21 better than average. And they've done a good job of --
22 obviously they have disagreements, and they fuss about stuff
23 where they've got good legitimate disagreements, but they
24 don't waste a bunch of your time on trivial things. There
25 were relatively few objections in the trial, and that speaks

1 well for them.

2 It shows that they respect your time and are trying to
3 make good use of it, and I certainly appreciate that and I
4 suspect you-all do. And I just wanted to acknowledge that for
5 them.

6 So our game plan is I've prepared a document -- do they
7 have the copies?

8 Okay. You'll just have to listen and follow along. But
9 when you go back to deliberate, we'll give each of you your
10 own copy of the charge. And it has some general instructions
11 that apply pretty much in every case and then some specific
12 instructions and questions that apply to this case.

13 And it's relatively short. It's relatively short. There
14 basically are three questions, 1-A, 1-B, and 2. And you may
15 not have to answer 2 depending on how you answer 1-A and B.
16 So it's not a very complicated charge, which is good.

17 I'm in an odd circumstance here where I think pretty much
18 all of the lawyers don't like the way I submitted 1-A and 1-B.
19 They think it's confusing. And I understand that. I
20 acknowledge that.

21 But when I was a baby judge many years ago at baby judge
22 school, they said, always submit the questions so that the
23 party with the burden of proof is looking for a yes. And here
24 the party with the burden of proof are the Magness parties, so
25 they are look for yeses. And I offer this to you just as a

1 navigational aid. If you get lost in double or triple
2 negatives, always remember they're looking for a yes and the
3 Receiver is looking for a no.

4 Now, I'm not saying decide which side you like the best
5 and then answer the questions that way. In fact, I instruct
6 you just the opposite of that. I say answer each question
7 based on the evidence. Don't decide who you think should win
8 and then answer the questions accordingly.

9 But I'm just offering this as a navigational aid. If you
10 get tangled up in the negatives, always remember the Magness
11 parties with the burden of proof are looking for a yes, and
12 the Receiver is looking for a no.

13 So what we're going to do is, I'm going to read the
14 charge to you, then the lawyers will make their closing
15 arguments. The Magness parties go first because they have the
16 burden of proof, then the Receiver, and then the Magness
17 parties get the last word of all in rebuttal.

18 It's probably going to take me about 15 or 20 minutes to
19 read this to you. And, I'm sorry, I usually try to bring the
20 copies for you-all down. And we're a little bit
21 discombobulated so I didn't get them down here for you to
22 follow along while I'm reading it to you.

23 If my voice gives out, I've asked one of my law clerks,
24 who's sitting in the back there, to be on standby to step in
25 and finish reading if I can't finish it. But I'll read it to

1 you, then the Magness parties, then the Receiver, then the
2 Magness parties again.

3 They have a total of 45 minutes per side. So I think,
4 given the length of that, once they finish their -- the
5 Magness parties finish their openings, we'll take a short
6 break, probably just only about ten minutes or so, but so that
7 you don't have to sit there for two hours at a stretch.

8 So I think, without any further commentary, I'll proceed
9 now to the Court's charge to the jury.

10 Members of the Jury:

11 It is my duty and responsibility to instruct you on the
12 law you are to apply in this case. The law contained in these
13 instructions is the only law you may follow. It is your duty
14 to follow what I instruct you the law is regardless of any
15 opinion that you might have as to what the law ought to be.

16 If I have given you the impression during the trial that
17 I favor either party, you must disregard that impression. If
18 I have given you the impression during the trial that I have
19 an opinion about the facts of this case, you must disregard
20 that impression. You are the sole judges of the facts of this
21 case. Other than my instructions to you on the law, you
22 should disregard anything I may have said or done during the
23 trial in arriving at your verdict.

24 You should consider all of the instructions about the law
25 as a whole and regard each instruction in light of the others

1 without isolating a particular statement or paragraph.

2 The testimony of the witnesses and other exhibits
3 introduced by the parties constitute the evidence. The
4 statements of counsel are not evidence; they are only
5 arguments. It is important for you to distinguish between the
6 arguments of counsel and the evidence on which those arguments
7 rest.

8 What the lawyers say or do is not evidence. You may,
9 however, consider their arguments in light of the evidence
10 that has been admitted and determine whether the evidence
11 admitted in this trial supports the arguments.

12 You must determine the facts from all the testimony that
13 you have heard and the other evidence submitted. You are the
14 judges of the facts, but in finding those facts, you must
15 apply the law as I instruct you.

16 Do not let bias, prejudice or sympathy play any part in
17 your deliberations. This case should be considered and
18 decided by you as an action between persons of equal standing
19 in the community and holding the same or similar stations in
20 life. The law does not give special treatment to any person.
21 The Receiver and the Magness parties are equal before the law
22 and must be treated as equals in a court of justice.

23 Defendants have the burden of proving their defense by a
24 preponderance of the evidence. To establish by a
25 preponderance of the evidence means to prove something is more

1 likely so than not so.

2 Great. Yeah. Let's go ahead and pass those out.

3 (Whereupon, a copy of the Court's Charge to the Jury
4 was given to each juror.)

5 Good. So I am down to the last paragraph on page 2. In
6 fact, I'll repeat the next to the last paragraph so that
7 you-all can catch up.

8 Defendants have the burden of proving their defense by a
9 preponderance of the evidence. To establish by a
10 preponderance of the evidence means to prove something is more
11 likely so than not so.

12 In determining whether any fact in issue has been proved
13 by a preponderance of the evidence, you may consider the
14 testimony of all the witnesses, regardless of who may have
15 called them, and all the exhibits received in evidence,
16 regardless of who may have produced them.

17 The evidence you are to consider consists of the
18 testimony of the witnesses, the documents and other exhibits
19 admitted into evidence, and any fair inferences and reasonable
20 conclusions you can draw from the facts and circumstances that
21 have been proven.

22 Generally speaking, there are two types of evidence. One
23 is direct evidence, such as testimony of an eyewitness. The
24 other is indirect or circumstantial evidence. Circumstantial
25 evidence is evidence that proves a fact from which you can

1 logically conclude another fact exists. As a general rule,
2 the law makes no distinction between direct and circumstantial
3 evidence, but simply requires that you find the facts from a
4 preponderance of all the evidence, both direct and
5 circumstantial.

6 You are the sole judges of the credibility or
7 believability of each witness and the weight or significance
8 to be given to the witness's testimony. In weighing the
9 testimony of a witness, you should consider the witness's
10 relationship to a particular party; the witness's interest, if
11 any, in the outcome of the case; the witness's manner of
12 testifying; the witness's opportunity to observe or acquire
13 knowledge concerning the facts about which the witness
14 testified; the witness's candor, fairness, and intelligence;
15 and the extent to which the witness's testimony has been
16 supported or contradicted by other credible evidence. You
17 may, in short, accept or reject the testimony of any witness,
18 in whole or in part.

19 Even though a witness may be a party to the action, and
20 therefore interested in its outcome, the testimony may be
21 accepted if it is not contradicted by direct evidence or by
22 any inference that may be drawn from the evidence if you
23 believe the testimony.

24 You are not to decide this case by counting the number of
25 witnesses who have testified on the opposing sides. Witness

1 testimony is weighed; witnesses are not counted. The test is
2 not the relative number of witnesses, but the relative
3 convincing force of the evidence. The testimony of a single
4 witness is sufficient to prove any fact, even if a greater
5 number of witnesses testify to the contrary, if after
6 considering all of the other evidence, you believe that
7 witness.

8 A witness may be "impeached" or discredited by
9 contradictory evidence, by a showing that the witness
10 testified falsely concerning a material matter, or by evidence
11 that at some other time the witness said or did something, or
12 failed to say or do something, that is inconsistent with the
13 witness's present testimony. If you believe that any witness
14 has been so impeached, it is your exclusive right to give the
15 testimony of that witness whatever credibility or weight, if
16 any, as you think it deserves.

17 A simple mistake by a witness does not necessarily mean
18 that the witness did not tell the truth as he or she remembers
19 it. People may forget some things or remember other things
20 inaccurately. If a witness made a misstatement, consider
21 whether that misstatement was an intentional falsehood or
22 simply an innocent mistake. The significance of that may
23 depend on whether it has to do with an important fact or with
24 only an unimportant detail.

25 When knowledge of technical subject matter may be helpful

1 to the jury, a person who has special training or experience
2 in that technical field is permitted to state his or her
3 opinion on those technical matters. However, you are not
4 required to accept that opinion. As with any other witness,
5 it is up to you to decide whether to rely on it.

6 Remember that the lawyers' statements, objections, or
7 arguments--whether made during the trial or during their
8 opening and closing statements--are not evidence in the case.
9 The function of the lawyers is to point out those things that
10 are most significant or most helpful to their side of the case
11 and, in so doing, to call your attention to certain facts or
12 inferences that might otherwise escape your notice. However,
13 it is your own recollection and interpretation of the evidence
14 that controls in the case.

15 What the lawyers say is not binding upon you. If an
16 attorney's question assumes that some fact is true and the
17 witness did not agree with that assumption, the question
18 itself is not evidence that the assumed fact is true. You
19 should not consider or be influenced by the fact that during
20 the trial of this case counsel have made objections to the
21 testimony, as it is their duty to do so, and it is my duty to
22 rule on those objections in accordance with the law.

23 The fact that a person brought a lawsuit and is in court
24 seeking damages creates no inference that the person is
25 entitled to a judgment. Anyone may make a claim and file a

1 lawsuit. The act of making a claim in a lawsuit, by itself,
2 does not in any way tend to establish that claim and is not
3 evidence.

4 Answer each question from the facts as you find them. Do
5 not decide who you think should win and then answer the
6 questions accordingly. Your answers and your verdict must be
7 unanimous.

8 "Stanford" means R. Allen Stanford and his associated
9 entities, including Stanford International Bank, Ltd.,
10 Stanford Group Company, and other related entities. The Court
11 has previously determined that Stanford operated a Ponzi
12 scheme.

13 The "Magness Parties" means GMAG, LLC, Magness
14 Securities, LLC, Gary D. Magness, and Mango Five Family, Inc.,
15 in its capacity as trustee for the Gary D. Magness Irrevocable
16 Trust.

17 Question No. 1:

18 Did the Magness parties act in good faith when they
19 received the transfers from Stanford in October 2008?

20 Answer "yes" or "no" for:

- 21 a. no actual notice
22 b. no inquiry notice

23 Instructions for Question No. 1:

24 The Magness parties have the burden to prove good faith
25 by a preponderance of the evidence.

1 The Magness parties acted in good faith if they did not
2 have actual notice or inquiry notice in October 2008 that
3 Stanford was engaged in a Ponzi scheme.

4 Actual notice is based on what one actually knows. It
5 also includes the knowledge of agents acting within the scope
6 of their agency. An agent is a person who is authorized to
7 act on behalf of another. Examples of agents include
8 officers, directors, employees, and attorneys. A person has
9 actual notice if the person has actually reached the
10 conclusion that Stanford was engaged in a Ponzi scheme or if
11 the person has knowledge of facts that would have led a
12 reasonable person to reach that conclusion.

13 Inquiry notice is knowledge of facts relating to the
14 transaction at issue that would have excited the suspicions of
15 a reasonable person and led that person to investigate.
16 Inquiry notice can be based on both facts that one actually
17 knows and facts known by agents acting within the scope of
18 their agency.

19 If your answer to Question No. 1-A is "yes" and your
20 answer to Question No. 1-B is "no," then answer the following
21 question. Otherwise do not answer the following question.

22 Question No. 2:

23 Would an investigation have been futile?

24 Answer "yes" or "no."

25 Instructions for Question No. 2:

1 The Magness parties have the burden to prove futility by
2 a preponderance of the evidence.

3 An investigation would be futile if a diligent inquiry
4 would not have revealed to a reasonable person that Stanford
5 was running a Ponzi scheme.

6 To establish futility, the Magness parties are not
7 required to prove that they actually conducted a diligent
8 inquiry.

9 Jury Deliberations.

10 It will shortly be your duty to deliberate and to consult
11 with one another in an effort to reach a verdict. Your
12 verdict must be unanimous. Each of you must decide the case
13 for yourself, but only after an impartial consideration of the
14 evidence with your fellow jurors.

15 During your deliberations, do not hesitate to re-examine
16 your own opinions and change your mind if you are convinced
17 that you were wrong. But do not give up on your honest
18 beliefs because the other jurors think differently or just to
19 finish the case. Remember at all times, you are the judges of
20 the facts.

21 You have been allowed to take notes during this trial.
22 Any notes that you took during this trial are only aids to
23 memory. If your memory differs from your notes, you should
24 rely on your memory and not the notes. The notes are not
25 evidence. If you did not take notes, rely on your independent

1 reason of the evidence and do not be unduly influenced by the
2 notes of other jurors. Notes are not entitled to greater
3 weight than the recollection or impression of each juror about
4 the testimony.

5 Even though the court reporter is making stenographic
6 notes of everything that is said, a typewritten copy of the
7 evidence will not be available for your use during
8 deliberations.

9 The fact that I have given you in this charge
10 instructions about a particular claim or defense, or that I
11 have not so instructed you, should not be interpreted in any
12 way as an indication that I believe a particular party should,
13 or should not, prevail in this case.

14 When you go into the jury room to deliberate, you may
15 take with you a copy of this charge, the exhibits that I have
16 admitted into evidence, and your notes. You must select a
17 presiding juror to guide you in your deliberations and to
18 speak for you here in the courtroom. After you have reached a
19 unanimous verdict, your presiding juror must fill out the
20 answers to the written questions on the verdict form and sign
21 and date it.

22 Do not deliberate unless all members of the jury are
23 present in the jury room. For example, if one or more of you
24 go to lunch together or are together outside the jury room, do
25 not discuss the case.

1 During your deliberations, I will honor any reasonable
2 work schedule you may set and will honor your reasonable
3 requests regarding how frequently you wish to recess and for
4 how long.

5 After you have concluded your service and I have
6 discharged the jury, you are not required to talk with anyone
7 about the case. If you need to communicate with me during
8 your deliberations, the presiding juror should write the
9 inquiry and give it to the court security officer. After
10 consulting with the attorneys, I will respond either in
11 writing or by meeting with you in the courtroom. Keep in
12 mind, however, that you must never disclose to anyone, not
13 even to me, your numerical division on any question.

14 Which concludes the Court's charge.

15 THE COURT: Are the Magness parties ready to proceed
16 with closing?

17 MR. PETRIE: Yes, sir.

18 THE COURT: All right. You may proceed.

19 MR. PETRIE: Ladies and gentlemen of the jury, I
20 first want to echo what the Judge has said and thank you on
21 behalf of Mr. Magness and the three Magness companies for your
22 service and for the diligence you've shown in what are some
23 issues that have a lot of numbers and can be complicated.

24 And as the Judge has said, there is no dispute that --
25 and I'm going to use Stanford generically for all 130

1 companies and Mr. Stanford -- that Stanford was a Ponzi
2 scheme, that Stanford was operated to defraud all of the
3 people who deposited money into the Stanford International
4 Bank, including the three Magness companies and Mr. Magness,
5 their owner.

6 So I'd like to start by running through some things that
7 I think we've proved to you.

8 And the first thing, of course, we have the CDs. You-all
9 have -- you'll have them back -- you'll have copies of them
10 back in the room. You've seen them from time to time. As you
11 go on, you know the litany of the eight CDs and the schedule
12 and the dollar amounts. So I'm not going to we labor those
13 points. But we've shown that the Magness parties deposited
14 \$79.2 million into the bank and got these pieces of paper
15 back.

16 At the time we did that, we didn't know that this was a
17 Ponzi scheme. The Magness parties had no reason to know this
18 was a Ponzi scheme at the time the money went into the bank
19 over that range from '04 to '06.

20 The Magness parties, right at the front end, made the
21 decision that rather than get the interest that was accruing
22 on the CDs out periodically as was an option under the program
23 that the bank established, said keep the interest in the CDs,
24 let the interest continue to accrue and compound.

25 And as we know, by the time we get to the October 2008

1 time frame, which is the time frame at which we need to look,
2 that those CDs -- the accrued interest on those CDs, as the
3 bank booked it because it wasn't paying it to us, was roughly
4 \$24.2 million.

5 And the evidence has been that the Magness parties
6 invested in these CDs just like everybody else, that they were
7 promised a better return than they could get on a United
8 States CD; and just like the 17,000 or 30,000, depending on
9 which number we look at, other depositors, that's the basis on
10 which we proceeded.

11 We then jump forward, and we have the loan transactions
12 in October of 2008. And, again, you've heard a lot about
13 them. I'm not going to belabor them. But what we've shown is
14 they went, the Magness parties, in 2008 came to the bank and
15 borrowed then against the monies they had deposited and taking
16 the four loans that have been discussed at some length.

17 As you also know, that, as to that first loan, the bank
18 said, We're not going to make a second until you pay off the
19 first. And to pay off the first, the Magness parties said,
20 Take the interest that we've been accruing on your books and
21 that you owe to us, use that to pay down; we'll give you
22 roughly another \$750,000 cash; that will zero out the first
23 set; we'll be cleared to borrow the next three loans.

24 And there are three loans, of course, because they are
25 based on the three parties' groupings of CDs.

1 Against that, we have to look at the backdrop of what was
2 happening at the time. And you've heard a lot of testimony,
3 and you'll see documents when you're back in the
4 deliberations, that talk about what was going on economically
5 at the time. And I just picked some of the flag posts we
6 talked about.

7 And we start, as you know, the mortgage meltdown started
8 in '07, the economy started going south. We have the large
9 investment bank, Bear Stearns, fail in March of '08. Then the
10 economy continues to fall away, and we get to September, right
11 before the loans, when the enormous financial institutions in
12 our economy start to fail, and we lose the companies, like
13 Wachovia, the large bank. We have companies like Goldman
14 Sachs, who need to go to the government and say, Please give
15 us billions of dollars to rescue us. All of that starts --
16 really starts steamrolling in late September.

17 You have a company like AIG, an insurance company that
18 was in all sorts of financial areas, in addition to doing
19 insurance, and AIG had to go to the government and get
20 billions and billions of dollars to stay afloat.

21 And what we know and what we've proved is, all of those
22 companies, with their differing financial problems but all
23 coming to a head at the same time, none are frauds. None of
24 them were Ponzi schemes. And as the witnesses have told you,
25 just because a big company goes upside down doesn't mean that

1 the first thing you say is, oh, my gosh, this is a fraud.
2 This was the economic environment in which we were operating.
3 We now call that time period, when we look back on it, I
4 don't know we necessarily called at the time yet testimony is
5 that's what we refer to as the Great Recession, starting in
6 '07, carrying through '09. And as you can see, the big dip
7 here is right in the '08 time frame that we're talking about
8 if you look at the Dow Jones industrial average.

9 But, of course, you heard the Magness parties were not
10 invested broadly in the Dow Jones industrial average, but
11 rather had what we talked about as being these concentrated
12 holdings in the Liberty Media entities. And so I think it's
13 helpful to look at LINTA, which is one of the Liberty Media
14 entities that we've been using as the sort of bellwether stock
15 of what was going on with all of these cable and media-related
16 entities.

17 And as you can see, what I've depicted here is the
18 history of the LINTA stock over time. And I flagged two
19 things here for your attention. You can see, first of all,
20 when it's up in the 20s, that's the 2007 time frame. And
21 you'll recall from all the minutes we looked at, that in '07,
22 that was when the Magness parties were making voluntary
23 decisions that it made sense to sell stock, that it made sense
24 to pay down debt, that the market supported that kind of
25 activity.

1 And I've also flagged for you what things looked like in
2 October of '08 when everything has fallen away, we've gone off
3 that cliff that you heard about, and all of the sudden the
4 stock is worth far, far less and it no longer is the type of
5 thing where you can sell it and pay your way out of debt.

6 There's also something going on with the stock that's
7 another important trigger, another important backdrop to
8 understand what's going on in the fall of '08, and that is,
9 what happens when we break \$10.

10 You recall the testimony about both HSBC and U.S. Bank
11 had this \$10 floor. So as soon as the stock went under \$10 in
12 value, it was as if it didn't exist anymore and the banks
13 called the loans. And that was one of the pressure points
14 that was operating on the Magnesses.

15 So you can see when the stock in October drops below
16 that, we're in trouble. Magness parties came in, borrowed \$25
17 million to try and clean things up with U.S. Bank, went out
18 and thought they'd taken care of that, and within days the
19 market continued to plummet, they needed more money, we drop
20 below \$10, and all of the sudden we had these big loans coming
21 due and went back in and borrowed the 62-and-a-half million
22 that you've heard so much about.

23 This is Ms. Dokken's tally of what was done to try and
24 address these margin calls. This is a summary she prepared at
25 the time. It's part of the business records of the Magness

1 parties. And I know it's tough to read. The good news is
2 you'll have a full-sized copy back in the jury room.

3 But what this tells you and what her testimony told you
4 was that there were two sources used to pay down over \$150
5 million of margin debt in October, as all of these economic
6 things crashed down on the Magness parties.

7 The first was the loans. \$81 million of the loans
8 immediately went out the door and went out the door to pay
9 margin loans. The other thing that happened was there were
10 stock sales. And you heard, these weren't voluntary sales.
11 The financial institutions came to the Magness parties and
12 said, You need to sell stock, or the banks are requiring you
13 to sell stock. You have a choice. You go out and sell it and
14 do the best you can. If you don't do it, we will.

15 And so you have \$77 million of forced sales of stock, all
16 done to try and meet these margin calls. And that's just the
17 month of October. It's not leading forward into November.

18 Now, there's -- and this is -- you saw this chart in
19 opening. I've taken some of the other material out of it, but
20 this shows how the margin debt was paid down over time.

21 And it shows the shifts in the lenders because, you'll
22 recall, you see U.S. Bank in the first stack, well, it
23 disappears because that's the assets that got transferred to
24 Merrill Lynch. When we paid off U.S. Bank, you could get the
25 stock out, move it to Merrill Lynch because, as Mr. Magness

1 told you and Ms. Dokken told you, Merrill Lynch had better
2 terms, would allow us to borrow more and allow us to continue
3 to fight these margin calls.

4 So other things about which there's no dispute we've
5 proved, Mr. Janvey, who now comes before you as the Receiver,
6 he's not a financial advisor. He has never been a financial
7 advisor and, as a matter of fact, when he was -- he talked to
8 you about the -- when he was at the Dallas Bar Association and
9 was appointed as a receiver, he'd never heard of Stanford.

10 You have his lawyers. They aren't financial advisors.
11 They're coming late to the scene and representing Mr. Janvey.

12 You have Ms. Van Tassel from Navigant. She's not a
13 financial advisor. You heard she's a forensic accountant.

14 None of these people were present at the time when the
15 events were happening. They are all coming late to the scene
16 and taking the knowledge they have today and looking back in
17 time and trying to assess what was going on back in time.

18 Now, as I mentioned, there's no dispute that this was a
19 Ponzi scheme, but you've heard how complicated this was. This
20 was not a simple operation that was easily divined in terms of
21 what's going on. You heard of how there were 130 companies,
22 over 3,000 employees. You heard they were doing business in
23 13 countries. You saw the touts, or you will see the touts,
24 from the company that as of December of '08, say, we have over
25 \$8 billion of assets; that the bank has over 30,000

1 depositors.

2 You have Mr. Janvey telling you, but by the time he gets
3 in in mid February, it's about \$7.2 billion and down to
4 roughly 17,000 depositors, but a large number of folks
5 involved in this very complicated scheme.

6 We also know the evidence ranging from Ms. Van Tassel to
7 Mr. Janvey is that only a handful of people knew that this was
8 a Ponzi scheme. And it is quite literally a handful. It is
9 Mr. Stanford; Mr. Davis; Ms. Pendergest-Holt, sometimes
10 referred to as Ms. Holt; Mr. Kurtz, who we didn't hear a lot
11 about; and Mr. Lopez. Those are the five individuals who knew
12 what was going on.

13 And you heard Ms. Van Tassel tell you that their entire
14 job was to conceal from the people on the front lines, the
15 financial advisors, what was actually going on with this
16 scheme, and they were very successful at it.

17 This scheme in particular, Mr. Davis is more the money
18 guy, as you recall, was run by people who per their own mouth
19 will tell you and did tell you that they were the best bunch
20 of liars you could hire. And, again, here's what Mr. Davis
21 said.

22 Question: "You were involved from an operational standpoint
23 more of the -- the day-to-day operations of the money flow
24 through this company. Correct?"

25 Answer: "Yes. Plus, I was the best liar that you could have

1 ever hired."

2 Now, who is underneath the best liar? Who is directly
3 hearing all those lies? We heard from Juan
4 Rodriguez-Tolentino, the principal contact at the bank. He
5 was the bank president. You heard him say how he was always
6 available, everybody had his direct dial, everybody had his
7 cell phone. If things got elevated or you wanted to elevate
8 it, he was available. He was the person you could speak to.

9 You also heard Mr. Janvey and Ms. Van Tassel confirm that
10 he was a figurehead. He was the guy who did the
11 meet-and-greets, did the tours, but wasn't the guy who knew
12 anything about the investments or the real operations of the
13 bank.

14 You also know that he wasn't involved at all in the
15 investments, not just a question of not having knowledge.
16 That was done somewhere else. That was Mr. Davis. So
17 anything he's talking about investments is part of the lies
18 that he's been told and because he's the meet-and-greet guy,
19 the presentation guy. He's repackaging them and spinning them
20 out to his audience.

21 And we know that he testified he didn't know anything
22 about the Ponzi scheme, and there's no evidence that he knew
23 anything about the Ponzi scheme or could have shared anything
24 with the Magness parties about the Ponzi scheme.

25 Now, we also know that Mr. Janvey was appointed as the

1 Receiver, and you heard what his job was, but he was appointed
2 at the request of the United States Securities and Exchange
3 Commission. And the SEC came into this court, not Judge
4 Godbey but another judge, and said, We want to have a Receiver
5 appointed; and came into this court and said, There are not
6 only companies over which we want a Receiver appointed, but
7 there are individual -- the individual people are also subject
8 to the Receivership.

9 And as you can see from the list of individuals, this is
10 the first page of the order appointing Receiver, that list
11 excludes Mr. Tolentino. Mr. Tolentino was not targeted as
12 being one of the persons with knowledge or the kingpins, as it
13 were, in this scheme. And, of course, you also heard that
14 he's never been the subject of any sort of criminal
15 proceeding. That's more than Mr. Stanford, Mr. Davis, and Ms.
16 Pendergest-Holt can say, because they've all been convicted
17 and have gone to prison in various ways.

18 We've also talked some, and looking beyond this scheme,
19 to what was going on more generally with the SEC, the
20 regulatory environment, and what was going on in our economy
21 through the fall of 2008 and into 2009. And what we also
22 talked about was how the SEC was also tasked, when it looks at
23 broker-dealers, with monitoring Mr. Madoff, who ultimately had
24 a \$50 billion Ponzi scheme.

25 And you'll recall that Mr. Bell, one of the brokers from

1 Merrill Lynch, came in and testified that a lot of people
2 thought that Mr. Madoff's deal was too good to be true. But
3 he continued to operate. And it was only when the crisis hit
4 and the SEC stepped in, that his \$50 billion Ponzi scheme was
5 revealed.

6 You have a parallel thing going on with Mr. Stanford.
7 There's no dispute that the SEC started looking at Stanford,
8 using that generically, in the late 1990s, and that the SEC
9 took no action to shut down this fraud until two decades
10 later, 20 years later.

11 So that all the people who invested in the scheme, all
12 those people who are supposed to be protected by the
13 Securities and Exchange Commission, including the Magness
14 parties, invested on the SEC's watch while it was
15 investigating and lost their money on the SEC's watch while it
16 was investigating but before it took any action.

17 And we also know that this is not something that's unique
18 to Antigua or to some sort of bank doing business offshore
19 because, as Mr. Wilk pointed out, Madoff happened right in
20 Manhattan, midtown Manhattan. So this is not something that
21 happens only in other countries. It happens here.

22 So with that broad background, let's talk about what the
23 Receiver's challenge is and what our proof is.

24 Now we are eight years later. The Receiver is appointed
25 in '09. We're almost in the anniversary coming up in the

1 early part of '17. The Receiver, now looking back in time
2 with the benefit of eight years of rooting around in all those
3 records, and you saw the part of the Receivership Order that
4 gave him powers and authorities that we never had, the ability
5 to gather up all those records, the ability to subpoena
6 records, the ability to subpoena testimony, he comes in and
7 says, Oh, Magness parties, you had actual notice in October of
8 2008 that Mr. Stanford was engaged in a Ponzi scheme.

9 The second thing he contends is, you, the Magness
10 parties, had knowledge of facts that would cause a reasonable
11 person, somebody out here with those facts in their head, to
12 say, I need to look at this further; and, lastly, saying, that
13 if that reasonable person with those facts had looked further,
14 they would have been able to uncover that this was, in fact, a
15 Ponzi scheme.

16 And the Receiver testified that, based on that, he's
17 trying to recover the \$79 million that was the money we
18 deposited. So it's not money we made off the deal. This is
19 the money we deposited into the bank.

20 Let's start with actual knowledge. This is our proof
21 that nobody had actual knowledge in October of 2008 that
22 Stanford was a Ponzi scheme, and let's see who we heard from.

23 You saw five people who were more directly affiliated
24 with the Magness parties, in other words, you have Mr. Magness
25 obviously, and you have the three people on the investment

1 committee, and then you have Ms. Dokken, who's the CFO. And
2 each one of those people came into court and testified that
3 they didn't have any actual notice that this was a Ponzi
4 scheme. They didn't have any actual notice that this was a
5 fraud of some sort. They didn't have actual notice until the
6 Receiver was appointed.

7 And it might be helpful to think about what their
8 background is. Ms. Dokken is retired. Remember she's the one
9 who said, I didn't want to die on the job because it was so
10 stressful? She has no dog in this fight.

11 You have Mr. Magness and Mr. Knudson. They're the ones
12 who kept their money in all the way until the end. They
13 got -- certainly the Magness parties got some of it out, but
14 they had still that 20 percent, the \$16 million we saw that
15 was in at the end, and Mr. Knudson had his big CD in at the
16 end.

17 And then you have the two -- the other two lawyers, Mr.
18 Armstrong and Mr. Sutton, who both said that, We had no idea
19 that this was a Ponzi scheme at all.

20 Then let's look at the second contention, which is, that
21 we had enough facts, the Magness parties knew enough, that
22 they should have had their suspicions raised and should have
23 asked more questions.

24 Well, first of all, you've seen -- again, we look at the
25 same five people -- that they did ask questions; that when

1 they had questions about what was going on, and, for example,
2 you heard Mr. Sutton, that when he found out that, hmm, this
3 isn't like a United States CD, this is something a little
4 different, that he asked questions; that Ms. Dokken, when the
5 economy was going into the slide and the mortgage market was
6 cratering, said, We ought to find out if these folks have any
7 investments in mortgages. They tell us that their investments
8 are the secret sauce and they won't tell us specifics, but at
9 least we'll find out if that bad category of stuff is somehow
10 contained.

11 I've pulled up this document, because this is when
12 anybody who had anything to do with the Magness parties had
13 inquiry notice.

14 This is the December 23rd Juan Rodriguez-Tolentino email
15 to all the internal people at Stanford. And this email is the
16 one that contained the public little glossy sheet that was a
17 monthly update. And in that sheet, you'll recall--and you'll
18 be able to look at it when you're in back--Mr. Espy said
19 sometime in December or January he got worried because he
20 looked and said, They only have a \$110 million loss. The bank
21 only has \$110 million loss, and the economy's going like this
22 (indicating).

23 And what he said to Mr. Magness was, I need to
24 investigate this. I need to go get my questions answered
25 because this just doesn't make sense to me. Mr. Magness was

1 talking to him about paying back the loans, and Mr. Espy said,
2 No, no, no, don't pay back the loans right now; I need to go
3 investigate this. And that's what he did.

4 Now, I bring up the email, because everyone's testimony
5 that you heard has been a little bit loose in terms of what
6 the time frame was--it's December, it's January, we're not
7 quite sure of a specific date. But because Mr. Espy has that
8 \$110 million figure, we can peg the specific date, and that's
9 because that figure was made public December 23 of 2008.

10 Then the next question is, when we have questions, what
11 do we do to get them answered? Who do we talk to? Where do
12 we get information?

13 Well, you heard the first place is we can go to Stanford.
14 Well, we have Mr. Stanford and Mr. Davis. They're the crooks.
15 They're not going to tell us anything. They're not going to
16 say, Okay, you're right, we are running a huge Ponzi scheme,
17 sorry. We just know that's not realistic.

18 You have Mr. Tolentino. He's the figurehead. He doesn't
19 know anything. He's the guy who goes out and feeds the party
20 line to the customers, whether they're existing or
21 prospective, and just repeats what he's been told to repeat.

22 Well, we also know that you had two layers of regulation.
23 You had the SEC that monitored the sales force. Remember I
24 talked with Mr. Janvey and Ms. Van Tassel about how the way
25 these CDs were sold were through the U.S. broker-dealer

1 regulated by the SEC watching all of this going on for two
2 decades and not doing anything. So you have the SEC at one
3 level.

4 But we also know that the bank was real upfront with
5 everybody. You'll see in the marketing materials, We're not
6 regulated by anybody in the United States. Instead, what we
7 have is an Antigua-Barbadian regulatory agency that supervises
8 us. And it was true that they did have that agency
9 supervising them.

10 What we didn't know, what nobody knew, was that the head
11 of that agency was on the take. And you heard Mr. Janvey
12 describe that he was only able to divine that once he had his
13 arms around all the books and records of the Stanford entities
14 and could track that money through a Swiss bank account down
15 to Mr. King at the island of Antigua.

16 THE COURT: Five minutes.

17 MR. PETRIE: Thank you, Your Honor.

18 So we have one set of regulators not doing anything and
19 the other ones on the take.

20 And the last thing we've heard a little about is
21 auditors. And you heard from Mr. Graves how auditors, as a
22 general matter, don't talk to people who aren't their clients.
23 Investors can't call up company auditors and get information.
24 And you heard more specifically that the auditors here just
25 didn't get involved.

1 So October of 2008, you've seen a lot of paper, some of
2 it numerous times, so I'm not going to belabor it here. I'm
3 going to go through it very, very quickly, and I'm going to do
4 that because you have seen it and you'll have it back in the
5 room with you.

6 But I want to look at this from the standpoint of two
7 perspectives. The first is, what do we know before October of
8 2008? What are the facts that the Magness parties had? And
9 then after 2008 when people's reflections have been changed by
10 events that have since happened, what are they doing with
11 those facts?

12 And I've picked some of these signpost events here. In
13 October of 2007, we have the two board meetings, the regular
14 board meeting, investment committee meeting. You've seen
15 those at length. This is when the investment committee starts
16 saying, Hey, we know more about these other assets. Let's
17 find out more about what's going on with these certificates of
18 deposit about which we know relatively little in comparison.
19 Let's have Mr. Espy make a presentation. Let's ask Mr. Wilk
20 to see what he can dig up.

21 And you recall also in October, this is the same time
22 when, in the context of talking about replacing the margin
23 loan lender, or lenders, as Mr. Magness said, they'd like to
24 have more than one, that Mr. Knudson says, Well, at least an
25 advantage to Stanford, because we have both a deposit and

1 we're talking about a loan, is that hypothetically we have a
2 right of offset.

3 We also know that, as the mortgage meltdown started in
4 February of 2008, Ms. Dokken in advance of an investment
5 committee meeting sent a note out to Mr. Espy saying, Tell
6 me -- let's have a conference with the bank. Let's figure out
7 whether the bank is invested in mortgages. Let's have a
8 presentation about that at our next meeting.

9 And, of course, the next meeting, about which you've
10 heard so much, is the March 2008 meeting. And that's the
11 meeting where everyone for the first time got a clear
12 impression that what we're talking about here is not a
13 certificate of deposit as would exist with a U.S. bank. We
14 have a little different beast here. What we have is not the
15 bank taking the money and making loans to the nail salon down
16 the street or to the folks running the business at your corner
17 grocery, but instead what we have is a structure where the
18 bank is lending money and is not -- lending money only to
19 depositors and is taking money and investing it in the stock
20 market and other investment activities.

21 This is the thing, as you recall, Mr. Wilk said -- he
22 referred to it as being a note structure. He said, This is
23 something that existed in the marketplace, Union Bank of
24 Switzerland, or UBS, did it; Credit Suisse did it, et cetera.

25 Well, Mr. Tolentino comes to the meeting -- remember,

1 he's the figurehead; he's just been told what to say -- he
2 said, this is a Swiss bank model, it doesn't operate like a
3 U.S. bank.

4 That was true. That was widely advertised that they
5 didn't make loans like that. Their only loans were those
6 cash-secured loans to depositors.

7 He also said it had some resemblance to a hedge fund, had
8 some characteristics of a hedge fund. And you heard, for
9 example, Mr. Wilk point that out; you heard Mr. Espy point
10 that out; you heard Mr. Sutton point that out; and then you
11 heard Ms. Van Tassel, when she first looked at it, relatively
12 speaking. In May of 2010, she looked at it, and her opinion
13 was, based upon the advertising, they're really operating more
14 like a hedge fund.

15 So this is no surprise to anyone that, when presented
16 with those facts, you say, this is a hedge fund.

17 This is something that I discussed in opening. It's in
18 the evidence packet. This is the July 2008 article in
19 Bloomberg, published the afternoon before the 4th of July
20 holiday. I throw that out for your consideration, because
21 what it says is, if you ask the SEC what they're doing, they
22 won't tell you anything. As a matter of fact, they won't even
23 tell you if they're doing anything, much less what they're
24 doing. So that's what we knew as of October of 2008.

25 Then what you've looked at is, after 2008, people looking

1 back and trying to describe what was going on.

2 THE COURT: You're at 30.

3 MR. PETRIE: Thank you, Your Honor.

4 You have Mr. Sutton, who's preparing board notes in April
5 of 2009, and he puts in a statement -- puts in two statements
6 that, if you look at the handwritten notes the people at that
7 meeting, doesn't appear. The word "receiver" doesn't appear.
8 The word "bankruptcy" doesn't appear. The word "trustee"
9 doesn't appear. There's nothing in the people's handwritten
10 notes at the time that says there was any consideration of any
11 treatment of the \$25 million. And because he made a mistake,
12 those provisions got crossed out of the minutes.

13 You also have the minutes after the fact talking in
14 December about what happened at the previous meeting. And
15 this is where the people talked about what had happened with
16 the loans.

17 You'll recall that Mr. Espy, when presented with this
18 document, something he saw for the first time in his
19 deposition, said, I don't care what the piece of paper says.
20 Here's what I remember happened: We went to the bank, we
21 asked for loans, we got the loans.

22 And you heard all of the witnesses through the Magness
23 parties say, whatever we were thinking about the bank at the
24 time, when the bank ponied up this money, ponied it up
25 quickly, no delay, no fuss, no stalling, no equivocating about

1 whether we could get the money, that reassured us that
2 everything was on the up and up.

3 So we then have events that take place postMadoff. And
4 you heard Mr. Bell tell you that, after Madoff, everything
5 changed. Everybody put on their sharp glasses and said, We
6 need to start looking at our investments more carefully
7 because if this guy can sneak one by us, every one of us needs
8 to look at transparency and see what's going on in our
9 investments.

10 And you'll see the Mango Five letter. We talked about it
11 some during the course of the trial. But that letter, in
12 particular, talks about Madoff types of things, and ultimately
13 asks the question, where are we.

14 And the last event that happens afterwards is, in the
15 fall of '09, the Magness parties prepare their tax returns.
16 And what they say is the fact, as was pointed out with Ms. Van
17 Tassel, that in October of 2008, we got money, and then at
18 some point in 2008 we commenced an investigation and became
19 concerned. And that was Mr. Espy's investigation.

20 So we have both the facts we knew before, and people
21 looking back in time to see what the facts are.

22 You're going to have all these documents in the back with
23 you, as the Judge said. That's why I skimmed over them fairly
24 quickly.

25 You're also going to have a verdict form, so I wanted to

1 talk to you about how we think the evidence would be relayed
2 onto that verdict form. As I said, you'll have this back
3 there.

4 As the Judge said, we want you to answer "yes." The
5 questions are phrased in such a way, though, so it's, did the
6 Magness parties act in good faith when they received the
7 transfers from Stanford in October of 2008? And so the first
8 question really is, is it correct that the Magness parties had
9 no actual notice? We say the answer to that is "yes," we
10 acted in good faith. That's what the evidence shows.

11 The second part of that, similarly phrased, is, is it
12 correct that the Magness parties had no inquiry notice? I
13 think the answer to that based on the evidence is "yes," we
14 acted in good faith.

15 And then, as the Judge said, there's a second question
16 that follows parts A and B of this one. If you get to the
17 second question, which is, would an investigation have been
18 futile, would we have been able to find anything if we
19 conducted this investigation, once again, we think the answer
20 to that question based on the evidence at trial is "yes."

21 Thank you very much for your time.

22 Thank you, Your Honor.

23 THE COURT: All right. Let's take a short 10-minute
24 break, and then we'll come back with the Receiver.

25 (Whereupon, the jury left the courtroom.)

1 MR. SADLER: Just some courtroom logistics I wanted
2 to clear with, Your Honor. I'm going to have a couple of
3 documents, and we're going to set them on A-frames. Just
4 wanted to be sure that was okay with the Court.

5 THE COURT: Whatever you need to do.

6 MR. SADLER: Yes, sir. Okay.

7 THE COURT: And I show you as four minutes over, so
8 11 minutes remaining.

9 MR. PETRIE: Thank you.

10 THE COURT: Okay. We'll see you back in ten
11 minutes.

12 (Brief recess.)

13 THE COURT: All set?

14 MR. SADLER: All set.

15 THE COURT: All right. Let's bring them in.

16 (Whereupon, the jury entered the courtroom.)

17 THE COURT: Be seated.

18 The Receiver may proceed.

19 MR. SADLER: Thank you, Your Honor.

20 Good morning. It's good to see you again. This is the
21 third time that I've been able to speak to you directly. We
22 started way back in the jury selection process that seems like
23 it was about six months ago.

24 I do want to thank you for your service, but I want to
25 get right to it.

1 Do you remember we talked in jury selection, I said -- I
2 asked some questions, and I asked about a couple of things.
3 Remember I talked about how you can tell people are not
4 telling you the truth, they're lying, telling different
5 stories? Remember I asked you about that?

6 And then I asked about, you know, another way people --
7 you might be able to tell they're lying to you is they say one
8 thing, but then there's something in writing that contradicts
9 that? Remember we talked about that?

10 And then the other thing that we talked about, remember I
11 asked for a show of hands of people watching "Law and Order,"
12 "CSI," who watched those shows? And I said, Any of you ever
13 had the feeling that after you sat through about five minutes
14 of the show, you kind of know what's happened, you kind of got
15 it figured out?

16 That's what I think this case is. I've been ready to
17 argue this case for days, and I think you've got it figured
18 out. I absolutely think you've got it figured out.

19 You have been patient, you've been attentive, and I know
20 you have seen through, you have seen through, the story that
21 these people have been trying to sell you.

22 Now, let me just say, there's going to be some strong
23 words coming, but it's backed up by the evidence. We're going
24 to talk about lies versus the truth. We're going to talk
25 about what they brought you. And let's just pause there for a

1 minute.

2 You saw some of their pictures up there. We brought you
3 the Receiver, who has a court-ordered job to be here. We
4 brought you the investigator, and she told you all about her
5 experience, her credentials, her qualifications, what she's
6 been doing.

7 That's the reason we're here. That's the reason Mr.
8 Janvey's here.

9 They've got 88.2 million reasons to be here. We just
10 have one. And who did they bring? Who did they bring besides
11 Mr. Magness, of course, who has to show up? Who did they
12 bring? Everybody on the payroll and some crooks. Those are
13 the witnesses they brought you.

14 And what did they do, the people on the payroll and the
15 crooks? And remember, we have crooks who were presented to
16 you as witnesses on their behalf, not just James Davis. How
17 about Chuck Wilk, his financial advisor? Remember that? We
18 brought you the evidence Mr. Wilk went to prison for tax
19 fraud. He's their witness. That's the kind of people they
20 brought you.

21 They brought these people to tell--and I'm going to have
22 to read it, I couldn't memorize it for you--a whole laundry
23 list of lies, of stories, of stories that don't match up the
24 evidence. And we're going to talk about that.

25 Why would they do that? They have something to cover up.

1 They have something to cover up. And you saw evidence of that
2 just yesterday. Why do you think we brought you Mr. Sutton's
3 testimony, one of his lawyers? Oh, to talk about that
4 document. Yeah, the one they changed after the fact, when
5 they got together at the Wynn casino and said, oh, this might
6 not look so good if we leave these sentences in the minutes,
7 we got to take those out.

8 Yeah, cover up. What are they covering up? What are
9 they covering up? They're covering up that they knew when
10 they took these fraudulent transfers, that's what the Court
11 has found, these so-called loans, they knew this bank was a
12 fraud. They knew it. That's why they got the money out.

13 Let's talk about that. Let's talk about that. You know,
14 the questions are there. You've got them in the charge. Did
15 they prove to you good faith. Really? Honestly? Good faith.
16 Let's just pause for a moment about good faith.

17 Remember I talked to Mr. Magness about his tax return?
18 Remember I really asked him to explain. Your story is, Mr.
19 Magness, you had no idea anything was wrong with this bank in
20 2008. Well, then why, oh, why did you tell the Internal
21 Revenue Service you were so concerned about your CD investment
22 in 2008, in October 2008, that that's why you took the loans?
23 Because you thought your CD was in jeopardy.

24 I know what jeopardy means. You know what jeopardy
25 means. Imminent risk of loss, something really terrible is

1 about to happen. Yeah, right. Once you know the investment's
2 in a Ponzi scheme, yeah, you know it's in jeopardy.

3 And they came here to trial, and you remember Mr.
4 Magness' testimony. It was just incoherent. He couldn't even
5 explain this. He was -- I think he tried to suggest there was
6 a typo in it or something. And what you just heard, the
7 explanation for this document, it's what I talked about with
8 Ms. Van Tassel, explanations that make no sense. They say one
9 thing, here's another thing in writing, they're totally
10 different, and the explanation that they give you makes no
11 sense.

12 Are you concerned or are you not concerned? Is your
13 investment in jeopardy in 2008 or is it not in jeopardy? Are
14 you lying to the IRS or are you lying to this jury?

15 I think I know what happened. I think I -- they told the
16 IRS what they needed to tell the IRS to be sure they didn't
17 have to pay taxes on that money. Yes, they were concerned.
18 Yes, they knew in October 2008, not months later, in October
19 2008, the taxpayer received the loans. That's what we're
20 talking about. We're not talking about in 1999, the SEC this,
21 or, you know, we're -- yeah. October 2008. That's what they
22 told the IRS.

23 So one of the things you have to decide as a jury, do you
24 think they lied to the IRS or do you think they lied to you?
25 Do they have reasons to lie to you? I don't know. I think

1 they have about 88.2 reasons to lie to you.

2 I told you at the beginning you were just going to be up
3 to your waistline in margin call and the history of the fall
4 of the stock market and all of that stuff, and I said, we
5 aren't disputing that, that's not what this case is about.
6 It's a nice cover story. It's a nice stocking horse to walk
7 behind. Oh, there's these terrible crises, that's why we had
8 to take the money.

9 But, remember, we just proved to you yesterday that's not
10 true. We proved to you yesterday, and I didn't hear a whisper
11 about it from him, how this whole thing started, Ms. Dokken
12 saying, oh, Mr. Magness has huge, huge expenses besides the
13 margin call. Remember that testimony? We put it up. Besides
14 the margin call. There's a movie going on and there's this
15 Fortrust thing. We need to go get some money from the bank.

16 Well, what happened to the margin call story? Oh, kind
17 of went out the window. Kind of went out the window on that.

18 They knew Stanford was running a fraud. That's why they
19 yanked the money in this weird way, and we proved that to you.
20 You know, if this was all legit, if he thought this was all
21 legit, all he has to do is walk into the bank and say, I've
22 got a hundred million on deposit, give me 80. Is that the
23 evidence of what happened? No.

24 What's the evidence of what happened? First, they were
25 told no. Then they were told why no, which is now a totally

1 different story than the public knew. Then we go to the
2 loans. And, really, loans? Has anybody in this room ever
3 gotten a loan that looked anything like what they did? No, of
4 course not.

5 Oh, on Friday they say, give us the money. Well, we're
6 going to sell stock and pay you back. And then Monday it's
7 all, no, we're not going to do that, we're just going to call
8 it even-stein with the fake interest on paper. But don't
9 worry, we'll pay you back. Does that -- I mean, does that
10 sound like people of good faith engaging in an honest
11 transaction, or people cooking up a story to get money out of
12 the bank?

13 I think I know the answer. And we know we got money out
14 of the bank, unlike the 18,000 people who were left holding
15 the bag when it shut down, you know, three, three-and-a-half
16 months later. 88 million reasons to come in here and tell you
17 a story. 88 million.

18 You have to understand who has been talking to you. And
19 you've just -- you've seen all sorts of evidence. And with
20 the videotape, it's -- it's hard -- it's hard for me to keep
21 up. But along the way, these people told you who they are.
22 Who they are.

23 Let's look at, for example, Ms. Dokken's testimony.
24 Volume 3 of the trial transcript, page 24, line 14, starting
25 at line 14, going all the way down to the bottom. Remember

1 Ms. Dokken was testifying -- you know, she is as close to this
2 as Mr. Magness. Close as this. If anybody knows him, the
3 real him, she does. And she was fussing at him about this
4 Stanford investment.

5 And the question was, Do you recall what he said?

6 Yeah. Screw you, I can do whatever I want.

7 Wow, that's a little bit of a window into somebody's
8 thinking and what they can get away with: Screw you, I can
9 get whatever I want. Huh.

10 Is there something else that was presented to you that
11 gave you a window on this group of people that came in--Espy,
12 Magness, Knudson, and then all the hired help? Yeah. And we
13 found it in Mr. Espy's testimony, a -- a liar on par with
14 anyone. Let's look at that. Volume 5, trial transcript, page
15 119, line 7. And let's go down 7 to 12. Wow, it is right
16 there for all of us to see.

17 This is Mr. Espy talking about Mr. Magness' access to the
18 bank. Well, what does he say? Well, we live in a world where
19 the most important people, the wealthiest people, they get
20 access that other people don't. That's Mr. Espy, godfather of
21 his kid, long-time friend, owes him money, maybe has a reason
22 to come in here and tell you a story. Yeah, they get access.

23 And didn't I tell you at the beginning of this case, this
24 was about they knew things about the bank the public didn't.
25 How and why? Because of that pipeline of communication, that

1 access, and we proved it. We proved it.

2 There's an inner circle of people. You heard that from
3 Mr. Sutton. Who's in the inner circle? Gary, Tommy, and
4 Tonya, and Steve Knudson, of course.

5 Mr. Espy, working both sides. Yeah, he gets a paycheck
6 from Stanford, courtesy of the CDs that are funneling him
7 money, but he's working for Mr. Magness. He is the pipeline
8 into the bank so that they know things that the public does
9 not.

10 So you heard from Mr. Magness. You heard from Mr. Espy.

11 This thing about his financial advisor, Chuck Wilk, the
12 admitted felon that they presented his evidence to you, that's
13 a guy who knows a thing or two about falsifying records. If
14 you're a convicted tax cheat, one thing you know about is
15 falsifying records. Who does he work for? Mr. Magness. And
16 we'll come back to that. We'll come back to that.

17 We heard from the lawyers. Okay. Mr. Armstrong came
18 down here, \$525 an hour, to testify for his client. Do you
19 think he's going to come down here and say, Well, actually we
20 knew it was a Ponzi scheme? No, of course not. He's going to
21 come down and say, No, we didn't know anything.

22 Yeah. But I'm going to show you a bit of his testimony
23 in a minute, remind you of it, where, you know, he actually
24 kind of slipped. Again, sometimes you have to wade through
25 all the junk and you find the little nugget, and he left us a

1 nugget.

2 Mr. Sutton, author of the two different version of those
3 notes, one version highly incriminating, the signed version
4 wouldn't -- you wouldn't know that conversation ever happened.

5 And remember I asked Ms. Van Tassel, In your hundreds of
6 investigations, have you ever run across a situation where
7 people, after the fact, doctor things up, put something in,
8 take something out, to try to hide the -- well, you have an
9 example right in front of you with Mr. Sutton.

10 Remember the testimony? He goes to the meeting, and they
11 say, oh, no, take that out. But, remember, nobody would fess
12 up to it. I asked Mr. Magness on that witness stand, remember
13 I went down, one by one, everybody who was at the meeting, did
14 they say take it out, did they say take -- I never could get a
15 -- never could get a confession, whose idea was it? Mr.
16 Sutton's testimony, same thing, Oh, it was a roomful of
17 people; I couldn't remember who told me to take it out.

18 Well, they're all in on it. Who cares? They took it
19 out. But we brought that evidence to you. We didn't try to
20 hide it from you. Oh, and the explanation now is, oh, he's
21 just kind of all messed up in his chronology. He -- he -- he
22 really wrote it down in April and got April confused with
23 December.

24 Well, the man must be on medication or something because
25 if they're suggesting to you that Mr. Sutton wrote these words

1 in April of 2009, well, that doesn't make any sense either,
2 does it? Why? Because by April 2009, we already have a
3 Receiver. So, again, it's one of the -- they're telling you
4 two stories, and they don't even offer you an explanation that
5 makes any sense. Why? Because they're lying to you. They're
6 lying to you.

7 But they needed Mr. Sutton at that meeting because he's
8 the guy that did the legal stuff. And it may have gone by
9 really quickly in his testimony, but in his testimony he said,
10 Oh, you know what? I had a case, I had a client in a hedge
11 fund that got seized, and the money he took out, a Receiver
12 came after him for it.

13 Well, that is the perfect guy to have at your December 5
14 meeting before the you-know-what storm goes public to say,
15 Hmm, we got 88 million out of this thing, we know it's about
16 to fall apart, what's going to happen next? And Mr. Sutton
17 said, This is what's going to happen next. But they took that
18 out of the minutes. They didn't want you to see it.

19 This thing about putting James Davis, convicted liar, up
20 there to bolster your story, I mean, wow! And then, to make
21 it worse, you know, the old saying is, you know, if you find
22 yourself in a hole, the first thing you ought to do is put the
23 shovel down. No. They got out the steam shovel, and they
24 brought out the president of the fake bank, Juan
25 Rodriguez-Tolentino. Remember the testimony about him,

1 Executive A in the plea agreement, Mr. Davis' plea agreement
2 where Mr. Davis said Mr. Tolentino was in on the cover-up.
3 And they bring those two guys in here to somehow bolster their
4 story?

5 So we got three -- you know, two convicted felons, the
6 president of the fake bank. Really? These are the kind of
7 people they bring you to tell their story. It's -- it's
8 amazing.

9 But let's -- and -- and you've got the documents.
10 Plaintiff's Exhibit 467, that's the Davis plea agreement.
11 SIBL Executive A, that's Mr. Tolentino, if you care to look.

12 Let's just talk about the top ten list, and there's too
13 many to go over in the limited time I have.

14 The first one is the one -- I keep coming back to it
15 because they've never offered you an explanation that makes
16 any sense because there isn't one. Again, they're either
17 lying to the IRS or they're lying to you. You know, you lie
18 to the IRS, you go to jail. They know that. Mr. Wilk knows
19 that because he went to jail for lying for tax reasons. But I
20 guess they think they can come in here, 88 million reasons,
21 lie to you, see if they can get away with it.

22 They said they first went to the bank because of this
23 margin call stuff. But we showed you yesterday on October 1,
24 Plaintiff's Exhibit 73, the meeting minutes. They're just
25 sitting there, saying, We're almost at the \$10 mark. We're

1 not -- you know, this isn't any surprise.

2 And what happens after the meeting? We showed you with
3 Ms. Dokken's testimony. She's worried about how to pay the
4 expenses for the movie. So the whole margin call thing starts
5 off as a lie. Did they have margin calls? Yes. Nobody has
6 suggested anything different. Was that the reason they yanked
7 the cash? No. And we proved it with their own people's
8 testimony and their own documents.

9 This is the one that is -- again, where is the
10 explanation that is consistent with your common sense? You go
11 down to the bank, you try to make a withdrawal. They say,
12 talk to the hand, not possible, we need your money on our
13 balance sheet, but, hey, we got a great deal going for you,
14 we'll loan you back 80 percent of it.

15 Their story is, we didn't have any idea that this bank
16 was in trouble, illegitimate, anything. And yet they admit
17 they went down, they walked in the door, asked for redemption,
18 were told, no, can't have it, not possible, we'll only loan
19 you 80 percent of it. Where is the explanation that that
20 would make sense? Oh, well, they got us the money real quick.

21 Well, would you feel reassured, going down to your bank,
22 they tell you, no, we need to keep the money on our balance
23 sheet, but we'll loan it to you. And you say, Well, as long
24 as you can loan it to me real quick, I'm cool with that. Oh,
25 come on.

1 You know, and this -- the bank was run by a bunch of
2 really smart people and, you know, we just believed them? Is
3 that the evidence you heard?

4 The evidence you heard is that when the president of the
5 fake bank tried to explain to them the magic formula for how
6 they were doing, you know, the market's this but they're that,
7 it was nonsense. Ms. Van Tassel pointed out it's nonsense.
8 Their own people testified, you know, we didn't really
9 understand what he was talking about.

10 So where's the explanation, you know? They thought
11 everything was fine, but the president of the bank couldn't
12 even make sense to them when he talked to them. You know,
13 it's a fake story they're coming up with.

14 The thing about Bernie Madoff, you know, they put his
15 picture up there, and I'm glad they did. Oh, we weren't
16 worried until Bernie Madoff, you know, hit the newspapers on
17 December 11th and then the whole world changed. BS.

18 December 5, before Madoff, they're already talking about
19 this bank going over the cliff. The meeting minutes say, We
20 went to get our money. They said no. So we had to do this
21 whole loan thing, promising them we'd pay it right back, and,
22 you know, not paying it back. So what does Bernie Madoff have
23 to do with anything? Nothing. It's part of their made-up
24 story. They already knew by that time. They already knew.

25 The margin calls pouring in daily, you never saw that.

1 You saw something -- they're so proud of Plaintiff's Exhibit
2 90, and I want you to look at it when you go back there
3 because you're going to see something interesting in it. Oh,
4 look at all the margin calls. Did you hear anybody actually
5 testify and show you a document? I think you saw about three
6 margin calls that don't total to anywhere near \$88 million.

7 If we can put Plaintiff's Exhibit 90 up there for just a
8 second.

9 I think counsel told you, Oh, Ms. Dokken created this at
10 the time this was going on.

11 Huh. That's interesting. Let's look at the footer of
12 the document. There's a date there. 020810. February 8,
13 2010. Another created-after-the-fact document. And it's
14 right there staring us in the face. Unbelievable.
15 Unbelievable.

16 Oh we -- but wait. Hold on. We needed cash to pay the
17 margin calls.

18 We can take that down.

19 But what about Mr. Bell's testimony that they parked 12
20 million at Merrill Lynch and just let it sit there? Wait a
21 minute. I thought the story was you needed all this for
22 margin calls. I can't keep it straight. You needed it for
23 margin calls, you didn't need it for margin calls, what's
24 going on? It's a lie a minute. It's a lie a minute.

25 These loans, Ms. Van Tassel testified to you these were

1 fake loans, a pretext, purported paper loans. Did he even
2 touch that on cross-examination? No, because it's
3 radioactive. They got no story. They borrowed this money in
4 this convoluted way, got more out of the bank than if it were
5 just the straight-up 80 percent loan.

6 Oh, made these weird promises to pay it back real quick,
7 you know, in a week or so. Never did.

8 Oh, I thought we were going to sell stock to pay.

9 Well, I thought the story was you're not selling stock.
10 I thought Mr. Magness didn't want to sell stock. He was in
11 love with his stock.

12 Well, I showed you two emails where they're promising the
13 bank, Oh, don't worry, we're going to pay raise the cash to
14 pay these loans back by what? Selling stock.

15 Okay. I cannot keep it straight. Is the story you don't
16 want to sell your stock, or is the story you're selling your
17 stock, and what's the explanation between the two different
18 stories? There isn't one. There isn't one because it's a
19 lie.

20 Mom walks into the kitchen. Little Johnny has his hand
21 in the cookie jar. And she says, Get your hand out of the
22 cookie jar. And he says, Oh, Mom, I was going to clean the
23 kitchen. I thought this is where you kept the cleaning
24 supplies.

25 Come on. That is the level of lie that's being -- it's

1 not even a sophisticated lie. It's insulting. It's
2 insulting.

3 And I just got to ask, come on. Do they think you're not
4 paying attention? Do they think that you don't notice when
5 they're talking out of both sides of their mouth? Really? I
6 mean, is that a way to treat people with respect and trust--to
7 come in here and -- and tell these BS stories with no
8 explanation and talk about, oh, it must be the SEC's fault.
9 You know, they were messing around since 1999. So what?
10 What's the SEC got to do with anything? We're talking about
11 what these people knew in October 2008. That's what we're
12 here to talk about. Who cares? We want to know what they
13 knew. Remember, I asked Mr. Magness, this whole case is about
14 what you knew and when you knew it. And we proved through his
15 own tax returns, yeah, he knew. Of course he knew.

16 You know, I got to tell you, when, when did we get to a
17 point where I have to lie to you to prove my good faith? When
18 did the world get turned so upside down, that that's good
19 faith--telling lies to prove that -- when does good faith and
20 lying go hand in hand? I just can barely get my mind around
21 it.

22 And you know what? Outside, fake news, BS on all manner
23 of publications, social media, that's great. You can say
24 anything, do anything, doesn't have to be true. We are in a
25 court of law. Truth is supposed to count here, not telling

1 people lies. It's unbelievable. It truly is. It truly is.

2 I want to come back to the advisor, the investment
3 advisor to Mr. Magness, the famous Chuck Wilk, convicted tax
4 felon. Look at the minutes of the December meeting where Mr.
5 Sutton was giving a warning, Mr. Wilk's not there. You look
6 at the minutes of the April meeting, the very next one where
7 they had the big hubbub about taking this out, guess who
8 showed up for that meeting? Look at the minutes. Chuck Wilk.
9 Again, I bet I know who has some experience taking stuff out
10 of documents, swapping things out, phonying up the paperwork.
11 He was at that meeting. He was at that meeting.

12 Okay. I understand the motivation to take out the
13 incriminating statements and come up with this crazy story
14 about, well, you know, he must have gotten the dates mixed up.
15 They knew, they knew, that if there was a document that says
16 they were sitting around at the Wynn casino in December
17 already talking about what's going to happen when a receiver
18 comes to get this money, they don't have a good faith story.
19 Right? They don't have a good faith story. So they took it
20 out. But we brought it to you. We brought it to you.

21 They knew. Mr. Espy testified. Remember? He was asked
22 what was his kind of state of mind following that March
23 meeting? Oh, things got a little dicey after that. That's a
24 quote from his testimony. Things got a little dicey after
25 that. You remember that statement. He knew Juan

1 Rodriguez-Tolentino's Swiss bank model hedge fund BS didn't
2 make any sense.

3 And now let's come back to Mr. Armstrong. And I need to
4 show you this, because, you know, he came down here at \$525 an
5 hour to testify for his client, but he left something
6 interesting for us. We've got a slide for his testimony at
7 Trial Volume 3, page 142 and 181.

8 During your several decades of law practice, you've seen
9 Ponzi schemes?

10 Sure.

11 So you got specific facts at a specific point in time
12 that made you concerned about the CDs.

13 I think that's correct.

14 So the Stanford CDs started to look like those real
15 estate investments in Nevada that turned out to be frauds.

16 Ultimately, yeah.

17 Huh. Mr. Armstrong, who was not on the inner circle but
18 who had experience in Ponzi schemes? He saw it. Mr. Bell saw
19 it. Mr. Bell talked about he told Tonya Dokken, too good to
20 be true, people are going to hit the exit door, time to get
21 out. And there was some suggestion about, well, maybe he told
22 that, you know, later. Huh. Later?

23 Well, I think the evidence we presented to you -- and
24 let's just look at it. Trial Volume 3, page 96, at line 16
25 through 20. This is from Tonya Dokken's testimony, talking

1 about visiting with Mr. Bell.

2 Did Mr. Bell, prior to February 12th, tell you that
3 Stanford might be too good to be true.

4 Oh, certainly when they wouldn't give us our money back.

5 Sounds like no redemption time. We know that happened in
6 October.

7 He was very involved in the loan process because he was
8 the recipient of a lot of the proceeds.

9 When was the loan process? October 2008.

10 When did he receive that 12 million they just parked at
11 Merrill Lynch?

12 October 2008. October 2008. They knew this thing was a
13 fraud.

14 And they got, I'll admit, good advice from Mr. Sutton,
15 because he'd had a client with the same problem. Perfect guy
16 to have a meeting like that. And he said, Look, this is
17 coming. And, sure enough, sure enough, the Court appointed
18 somebody to go after and recover for the victims money that
19 never should have left this bank.

20 The answers to the two good faith questions, and you've
21 got them right there, it's page 7 of the charge -- I would
22 like you to look at page 7 of the charge. No. The answer's
23 "no." No good faith. No good faith, no good faith, no, no,
24 no, unless, unless, it's okay to come in here and lie. Then
25 kind of all bets are off. We may as well be out on the

1 street. We don't even need to be in a courtroom.

2 But we are in a courtroom. We're in a courtroom where
3 the truth counts. Ms. Van Tassel told you her conclusion the
4 Magness Defendants had right in front of them the facts to
5 tell them this bank was a fraud. Did they attack that in her
6 cross-examination? Nope. Never even touched that conclusion.
7 Why? Because it's radioactive, and they don't have a story.

8 Where's their expert? Where's their expert? That guy
9 Graves they brought in, who said, oh, I think I worked a
10 couple of weeks on the case?

11 Come on. And she told you the loans were a sham.

12 You've got to say this stuff is wrong. This is wrong
13 what they have done. This is not good faith. This is wrong
14 what they have done. And it's wrong to come in here and tell
15 you a whole bunch of stories, and they've got 88.2 million
16 reasons to do it.

17 And when you see something that's wrong, we all have an
18 obligation to say, no, no, this is wrong. I don't go along
19 with this. I don't go along with doctoring up the official
20 minutes. I don't go along with telling the Internal Revenue
21 Service one thing and then telling a jury another thing. I
22 don't go along with that. That's not good faith. Answer the
23 questions "no."

24 And I'll leave you with this thought. I trust your
25 judgment, absolutely, a hundred percent. I trust your

1 judgment. You know the difference between a lie and the
2 truth. You know the difference. You know the difference
3 between right and wrong. Answer the questions "no." Answer
4 the questions "no."

5 I appreciate it.

6 MR. PETRIE: Thanks, Austin.

7 THE COURT: Eleven minutes.

8 MR. PETRIE: Yes. Thank you, Your Honor. Will you
9 give me a five-minute?

10 THE COURT: Yes.

11 MR. PETRIE: Thank you very much. Thank you.

12 Ladies and gentlemen of the jury, I'm not going to yell
13 at you, but I am going to tell you something about stories.
14 I'm really glad he wants to pursue this line about stories,
15 because I'm going to ask you to think about everything that
16 you've seen in this trial and say, what's missing? And that
17 is, why October? Why did the Magness parties need money in
18 October?

19 If the story is that they knew all this stuff beforehand,
20 as Mr. Sadler would have you believe, why would they sit there
21 and leave their money, since we're measuring from March when
22 Juan Rodriguez-Tolentino speaks to us, why would they leave it
23 for seven months?

24 There's nothing that happens in that time frame that
25 explains why, if you say, in March, according to Mr. Sadler,

1 we've heard all this, to use his phrase, BS, from Mr.
2 Tolentino, why would we leave it in there for seven months?
3 Because we thought, the Magness parties thought, it was a
4 legitimate bank. It was structured not like a U.S. bank, but
5 it was nonetheless a legitimate bank.

6 Now, the Receiver doesn't have anybody who can tell you
7 what was going on at the time, so we have to bring those
8 people in. Is Mr. Wilk a perfect human being? No. You heard
9 various people, Mr. Sutton, for example, say, yeah, I -- I
10 respect his judgment as an investment guy. Did he make some
11 bad decisions? Sure. He sure did. But they have nothing to
12 do with us. Nothing to do with us. We didn't even talk to
13 him about tax shelters.

14 You heard Mr. Sutton say, yeah, that was -- he went off
15 and did something else and his company, and he -- Quellos got
16 into trouble, but they never even talked to us about that
17 stuff. Now, when he started to get in trouble, he disclosed
18 it to us. But in terms of trying to sell us on these
19 investments, it never happened.

20 Instead, what you have is the people who are on the
21 ground, so to speak, at the time telling you, here's what was
22 going on. Here's what we were doing at the time, and here's
23 why.

24 And I encourage you to think about on simple things, like
25 what did Ms. Dokken say. Yeah, she said we had a lot of

1 expenses. She didn't say she took any of the money and spent
2 it on those expenses. She was simply acknowledging the fact
3 that there is a lot of money going out the door.

4 But the money here went out the door to pay down the
5 margin loans. Those were -- that's the only thing going on in
6 October of 2008 that explains why we were in talking to the
7 bank. And what you do is you look at that history. And, yes,
8 we didn't come in and give you paper by paper by paper all the
9 margin loans, nor did they, just like when Ms. Van Tassel gets
10 on the stand and talks to you about bank policies, the \$22
11 million woman doesn't show you anything, any lickstick piece
12 of paper, about a bank policy. She just says, it is.

13 And for \$22 million, do you think she's going to veer
14 from the program the Receiver wants? Not so. Not so. She
15 came in here, she wants to be the expert on everything and
16 tell you what everybody's thinking. But she wasn't there.
17 She doesn't know. She's looking at pieces of paper in a
18 vacuum.

19 You have to look at the pieces of paper, look at the
20 dates on the pieces of paper, and then look what's going on in
21 the background, why are people acting the way they're acting.
22 It's because we're getting hammered by these margin calls.
23 You're talking about people having to gather up millions of
24 dollars in the span of a day and then are so relieved when
25 they actually have a bank that says, yeah, we can do that,

1 we'll give you the money. Everyone wipes the sweat off their
2 brow and goes, gee whiz, we ducked a bullet there.

3 Well, they didn't. The market kept going down again.
4 Kept going down. And that's what put the Magness parties in
5 the position of having to go back to the source of cash that
6 they had, and they borrow the money. And then they spent the
7 money. They spent the money on the margin calls and then
8 some, because there's another 75-, \$77 million just in the
9 month of October from the forced stock sales.

10 These people are not liars. They didn't come in here and
11 take the oath and tell you a bunch of fairy tales that they
12 made up. They're not telling you a story. They're coming in
13 and telling you, we were there, here's what we did while we
14 were there, here's the pieces of paper we looked at while we
15 were there, here's what we intended and thought we did those
16 pieces of paper.

17 And you have people even going so far as Mr. Sutton, who
18 retired, he doesn't work for Mr. Magness anymore, remember he
19 said, the fun factor, he wanted to go do other things in his
20 retirement. And good for him. But he came in and said, I'm
21 not working for them anymore. But, nonetheless, he went back
22 and looked at his testimony and said, You know, I made a
23 mistake. I arranged this thing all on a continuum, and I was
24 messed up. When I put that down on these drafts, that wasn't
25 what was happening. I was taking today's thoughts and moving

1 them back in the past; just like Ms. Van Tassel is doing,
2 taking today's thoughts, moving them back in the past; just
3 like Mr. Janvey, What do I know today? Let me graft that over
4 what happened eight years ago.

5 But what he did was he said, I made a mistake. I'll come
6 in and correct that because I don't want the jury to have a
7 misimpression. I don't want the jury to be under an
8 impression that there's some nefarious plot to change our
9 internal minutes --

10 THE COURT: Five minutes.

11 MR. PETRIE: Thank you, Your Honor.

12 -- which, by the way, were not prepared for you; they
13 were prepared for the company. You heard everyone talk about
14 how the minutes were just sort of a summary of what had gone
15 on at the meeting so there'd be some record for it.

16 So it wasn't that this is, oh, well, this might see the
17 light of day some day in the future. It was, we need to make
18 sure this is accurate; Ray, you're messed up, you're taking
19 your thoughts from April of '09 and writing them down as if
20 they happened in '05, and they didn't. They never did.

21 Similarly, if you look through all the pieces of paper,
22 consider all the testimony you've heard, I encourage you, go
23 back and look and say, what was going on between, pick a date,
24 whether it's October of '07 when you have those two board
25 meetings, whether it's February of '08 with Ms. Dokken's

1 email, whether it's March of '08 with Mr. Juan
2 Rodriguez-Tolentino's presentation. Look and see what
3 happened after that, why did the Magness parties go to the
4 bank. We believe you'll find the only reason is they had
5 these margin calls and they were in crisis. It's not a story.
6 It's the fact. It's what was going on at the time. It's what
7 these people were thinking.

8 Thank you.

9 Thank you, Your Honor.

10 THE COURT: All right. In just a minute I'm going
11 to ask you to go back to the jury room and begin your
12 deliberations. Before I do, I want to remind you of an
13 instruction that's tucked away at the back of the charge, and
14 basically it says you're pretty much in charge of your own
15 schedule from here on out. So if it gets toward lunchtime and
16 you're starting to feel hungry and want to take a lunch break,
17 give yourselves a lunch break. If it's in the afternoon and
18 you want to take an afternoon break, give yourselves an
19 afternoon break.

20 The only thing that I ask is please keep our court
21 security officer advised of your schedule so that we can be
22 sure we're around and available whenever you-all are
23 deliberating in case you should need some assistance from us.

24 But at this time, please retire to the jury room and
25 begin your deliberations.

1 (Whereupon, the jury left the courtroom.)

2 THE COURT: Anything else we need to take up at this
3 time?

4 MR. SADLER: No, Your Honor.

5 MR. PETRIE: No, Your Honor. Thank you.

6 THE COURT: Okay. Don't wander too far away in case
7 they send us a note.

8 So we'll stand in recess pending word from the jury.

9 Also, if you could help us gather the admitted exhibits
10 together so we can send them back, we would appreciate your
11 help.

12 MR. SADLER: It's already done.

13 THE COURT: It's all right there?

14 MR. SADLER: Yes, sir.

15 THE COURT: Okay. Perfect. Thank you.

16 (Jury deliberates.)

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1 V E R D I C T

2 THE COURT: Are we ready for the panel?

3 MR. SADLER: Yes, sir.

4 MR. PETRIE: Yes, sir.

5 (Whereupon, the jury entered the courtroom.)

6 THE COURT: Be seated.

7 Good afternoon. The Court security officers have
8 returned your verdict to me, and although I think everyone in
9 the courtroom is aware of the contents of it, it's so short
10 I'm just going to recite the answers in the record.

11 The jury has returned a verdict answering Question 1-A,
12 "yes" and 1-B, "no." And then has correctly proceeded to
13 Question 2, which is answered, "Yes."

14 I'm going to do something that I do in every case
15 actually. So I'm not just picking on you-all; I do it all the
16 time. I trust your presiding juror. Don't get me wrong. I
17 do trust your presiding juror, but I like the record
18 affirmatively to show that the verdict is unanimous, or if
19 it's not, show that.

20 So I'm going to ask you-all to do what is called a poll
21 of the jury. And we will start in the front and go down, and
22 all I need for you to do is to state your name and tell us
23 either, yes, this is your verdict, or if it's not, tell us,
24 no.

25 So if we could start with you, please, ma'am.

1 THE PANEL MEMBER: Lois Bass. Yes, this is my
2 verdict.

3 THE PANEL MEMBER: Jorge Hernandez. This is my
4 verdict.

5 THE PANEL MEMBER: Carrie Welty. This is my
6 verdict.

7 THE PANEL MEMBER: Jana Slade. This is my verdict.

8 THE PANEL MEMBER: Marca Mason Hall. This is my
9 verdict.

10 THE PANEL MEMBER: Sue Sweeney. Yes, this is my
11 verdict.

12 THE PANEL MEMBER: Shawn Phillips. Yes, this is my
13 verdict.

14 THE COURT: Very good. Thank you-all.

15 I'm going to say just a couple of things to you, not very
16 long. The most important thing, again, is to tell you thank
17 you for your service. I think you understand better now than
18 you did last Monday that this was a case that was very
19 important to all of the folks involved, and I know they very
20 much appreciate your service.

21 I also am of the opinion that every time the system works
22 and we bring a case to a conclusion through the verdict of a
23 jury, we've shown that our justice system works and is vital
24 and is important, and you-all have been a significant part of
25 showing us that. So we really appreciate your service.

1 And as I indicated earlier today, again, I also
2 appreciate your attitude as you went through your service.
3 That means a lot to us, and we thank you.

4 So in just a second, I'm going to release you. I'm going
5 to ask you to do one more thing for us before you leave, and
6 that's to stop by the Jury Services Office on the first floor
7 and tell them that you've been discharged. If you need
8 paperwork for an employer or anything of that nature, they can
9 help you with that down there.

10 So, again, thank you for your service. At this time you
11 are released and discharged.

12 (Whereupon, the jury left the courtroom.)

13 THE COURT: Anything else we need to take up on the
14 record at this time?

15 MR. PETRIE: No. Thank you, Your Honor.

16 MR. SADLER: No.

17 THE COURT: You-all did a good job, and for those of
18 you from far-away places, have safe travels home, and we'll
19 proceed to enter a judgment here in the next few days.

20 The Court will stand in recess.

21 (The proceedings were concluded at 3:10 p.m.)

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I HEREBY CERTIFY THAT THE FOREGOING IS A
CORRECT TRANSCRIPT FROM THE RECORD OF
PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.
I FURTHER CERTIFY THAT THE TRANSCRIPT FEES
FORMAT COMPLY WITH THOSE PRESCRIBED BY THE
COURT AND THE JUDICIAL CONFERENCE OF THE
UNITED STATES.

S/Shawn McRoberts 01/18/2017

DATE
SHAWN McROBERTS, RMR, CRR
FEDERAL OFFICIAL COURT REPORTER

APPENDIX I

GARY MAGNESS IRREVOCABLE TRUST

**Year Ended December 31, 2008
Federal and State
Income Tax Returns**

EKS&H
**EHRHARDT • KEEFE
STEINER • HOTTMAN PC**
CERTIFIED PUBLIC ACCOUNTANTS AND ADVISORS

EKS&H

EHRHARDT • KEEFE
STEINER • HOTTMAN PC

CERTIFIED PUBLIC ACCOUNTANTS AND ADVISORS

7979 E. Tufts Avenue, Suite 400

Denver, Colorado 80237-2843

P: 303-740-9400 F: 303-740-9009

Mr. Gary D. Magness
Gary Magness Irrevocable Trust
1200 17th Street, Suite 660
Denver, CO 80202

Dear Gary:

Enclosed are the original and one copy of your income tax returns for the period ended December 31, 2008 for:

Gary Magness Irrevocable Trust as follows...

2008 1041 U.S. Income Tax Return for Estates and Trusts
2008 Arizona Fiduciary Income Tax Return
2008 Colorado Fiduciary Income Tax Return
2009 Pennsylvania Fiduciary Estimated Tax Vouchers
2008 Pennsylvania Fiduciary Income Tax Return

Each original should be dated, signed and filed in accordance with the filing instructions. The copy should be retained for your files.

Each beneficiary is to report on their 2008 personal income tax return their pro rata share of the beneficiary's income or loss, etc. as set forth on each beneficiary's copy of Schedule K-1. Each beneficiary's copy of Schedule K-1 should therefore be forwarded to them.

We sincerely appreciate this opportunity to serve you. Please contact us if you have questions concerning the returns or if we may be of further assistance.

Sincerely,

Ehrhardt Keefe Steiner & Hottman PC

Ehrhardt Keefe Steiner & Hottman PC

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www.EKSH.com

Form 1041 Department of the Treasury - Internal Revenue Service U.S. Income Tax Return for Estates and Trusts	2008 OMB No. 1545-0092
A Type of entity (see instr.): For calendar year 2008 or fiscal year beginning _____, 2008, and ending _____	
<input type="checkbox"/> Decedent's estate <input type="checkbox"/> Simple trust <input checked="" type="checkbox"/> Complex trust <input type="checkbox"/> Qualified disability trust <input type="checkbox"/> ESBT (S portion only) <input type="checkbox"/> Grantor type trust <input type="checkbox"/> Bankruptcy estate - Ch. 7 <input type="checkbox"/> Bankruptcy estate - Ch. 11 <input type="checkbox"/> Pooled income fund	Name of estate or trust (If a grantor type trust, see page 14 of the instructions.) GARY MAGNESS IRREVOCABLE TRUST Name and title of fiduciary MANGO FIVE FAMILY, INC. TRUSTEE Number, street, and room or suite no. (If a P.O. box, see page 15 of the instructions.) 100 WEST LIBERTY STREET, TENTH FLOOR City or town, state, and ZIP code RENO, NV 89501
C Employer identification number [REDACTED]	
D Date entity created 03/29/1996	
E Nonexempt charitable and split-interest trusts, check applicable boxes (see page 16 of the instr.): <input type="checkbox"/> Described in sec. 4947(a)(1) <input type="checkbox"/> Not a private foundation <input type="checkbox"/> Described in sec. 4947(a)(2)	
B Number of Schedules K-1 attached (see instructions) 1	
F Check applicable boxes: <input type="checkbox"/> Initial return <input type="checkbox"/> Final return <input type="checkbox"/> Amended return <input type="checkbox"/> Change in fiduciary <input type="checkbox"/> Change in fiduciary's name <input type="checkbox"/> Change in fiduciary's address	
G Check here if the estate or filing trust made a section 645 election <input type="checkbox"/>	
Income	1 Interest income SEE STATEMENT 1 2a Total ordinary dividends SEE STATEMENT 1 b Qualified dividends allocable to: (1) Beneficiaries (2) Estate or trust 1,905,965. 3 Business income or (loss). Attach Schedule C or C-EZ (Form 1040) 4 Capital gain or (loss). Attach Schedule D (Form 1041) 5 Rents, royalties, partnerships, other estates and trusts, etc. Attach Schedule E (Form 1040) 6 Farm income or (loss). Attach Schedule F (Form 1040) 7 Ordinary gain or (loss). Attach Form 4797 8 Other income. List type and amount SEE STATEMENT 2 9 Total income. Combine lines 1, 2a, and 3 through 8
Deductions	10 Interest. Check if Form 4952 is attached <input checked="" type="checkbox"/> SEE STATEMENT 2 11 Taxes SEE STATEMENT 2 12 Fiduciary fees PORTION SUBJ. TO ALLOC: 837,800. 13 Charitable deduction (from Schedule A, line 7) 14 Attorney, accountant, and return preparer fees 15a Other deductions not subject to the 2% floor (attach schedule) b Allowable miscellaneous itemized deductions subject to the 2% floor SEE STATEMENT 3 16 Add lines 10 through 15b 17 Adjusted total income or (loss). Subtract line 16 from line 9 17 -5,496,462. 18 Income distribution deduction (from Schedule B, line 15). Attach Schedules K-1 (Form 1041) 19 Estate tax deduction including certain generation-skipping taxes (attach computation) 20 Exemption 100. 21 Add lines 18 through 20 100.
Tax and Payments	22 Taxable income. Subtract line 21 from line 17. If a loss, see page 23 of the instructions -5,496,562. 23 Total tax (from Schedule G, line 7) NONE 24 Payments: a 2008 estimated tax payments and amount applied from 2007 return 2,637,164. b Estimated tax payments allocated to beneficiaries (from Form 1041-T) c Subtract line 24b from line 24a 2,637,164. d Tax paid with Form 7004 (see page 24 of the instructions) NONE e Federal income tax withheld. If any is from Form(s) 1099, check <input type="checkbox"/> 2,080. Other payments: f Form 2439 ; g Form 4136 ; Total 24h 2,639,244. 25 Total payments. Add lines 24c through 24e, and 24h 2,639,244. 26 Estimated tax penalty (see page 24 of the instructions) 27 Tax due. If line 25 is smaller than the total of lines 23 and 26, enter amount owed NONE 28 Overpayment. If line 25 is larger than the total of lines 23 and 26, enter amount overpaid 2,639,244. 29 Amount of line 28 to be: a Credited to 2009 estimated tax 2,639,244. ; b Refunded
Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.	
Sign Here	Signature of fiduciary or officer representing fiduciary _____ Date _____ EIN of fiduciary if a financial institution _____ May the IRS discuss this return with the preparer shown below (see instr.)? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Paid Preparer's Use Only	Preparer's signature <i>Jeanne Z. Hergott</i> Date <i>9-9-09</i> Check if self-employed <input type="checkbox"/> Firm's name (or yours if self-employed), address, and ZIP code EHRLARDT KEEFE STEINER & HOTTMAN PC EIN [REDACTED] 7979 E. TUFTS AVENUE, SUITE 400 Phone no. 303-740-9400 DENVER, CO 80237-2843
For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions. JSA 8F1010 2.000 Form 1041 (2008)	

Form **8275**

(Rev. August 2008)

Department of the Treasury
Internal Revenue Service

Name(s) shown on return

Disclosure Statement

Do not use this form to disclose items or positions that are contrary to Treasury regulations. Instead, use Form 8275-R, Regulation Disclosure Statement. See separate instructions.

▶ Attach to your tax return.

OMB No. 1545-0889

Attachment
Sequence No. **92**

Gary Magness Irrevocable Trust

Identifying number shown on return

Part I General Information (see instructions)

(a) Rev. Rul., Rev. Proc., etc.	(b) Item or Group of Items	(c) Detailed Description of Items	(d) Form or Schedule	(e) Line No.	(f) Amount
1 N/A	Cash	Cash received from Stanford International Bank	N/A	N/A	\$15,491,442.93
2					
3					
4					
5					
6					

Part II Detailed Explanation (see instructions)

1 See Part IV.

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Part III Information About Pass-Through Entity. To be completed by partners, shareholders, beneficiaries, or residual interest holders.

Complete this part only if you are making adequate disclosure for a pass-through item.

Note: A pass-through entity is a partnership, S corporation, estate, trust, regulated investment company (RIC), real estate investment trust (REIT), or real estate mortgage investment conduit (REMIC).

1 Name, address, and ZIP code of pass-through entity

2 Identifying number of pass-through entity

3 Tax year of pass-through entity

/ / to / /

4 Internal Revenue Service Center where the pass-through entity filed its return

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 61935M

Form **8275** (Rev. 8-2008)

Part IV Explanations (continued from Parts I and/or II)

Explanation of Item 1:

Taxpayer invested in Stanford International Bank CDs in 2005 and 2006. The face amount of the CDs totaled \$55 million.

In October 2008, the Taxpayer received funds from Stanford as a loan secured by the CDs. Due to the investigation of Stanford which was active in 2008, the Taxpayer was concerned that his CD principal was in jeopardy.

Stanford agreed to apply outstanding accrued CD interest of \$15,491,442.93 to pay off the loan. The cash received is a return of principal and not interest for the following reasons:

1. The funds received are a return of principal under the theories set forth in *Liftkin v. Comm'r*, 36 T.C. 909 (1961), *Electric Controls and Serv. Co. v. Comm'r*, T.C. Memo 1996-486 (1996), *Underhill v. Comm'r*, 45 T.C. 489 (1966), and *Corn Exchange Bank v. U.S.*, 37 F.2d 34 (2d Cir. 1930).
2. In the complaint filed by the SEC in *SEC v. Stanford International Bank, et al*, N.D. Texas, Docket No. 3-09-CV-0724-N the purported interest received by Stanford investors was not truly interest because it was not money generated by a return on their investment. Therefore, the funds are subject to substantial risk of forfeiture.
3. The funds received are subject to a substantial risk of forfeiture because the receiver has asserted that the Taxpayer is a relief defendant and that the funds received should be put into a constructive trust for all Stanford investors.

APPENDIX J



7979 E. Tufts Avenue, Suite 400

Denver, Colorado 80237-2843

P: 303-740-9400 F: 303-740-9009

Gary Magness and Sarah Siegel
1200 17th Street Suite 660
Denver, CO 80202

Dear Gary & Sarah:

Enclosed are the original and one copy of your 2008 income tax returns as follows...

2008 1040 U.S. Individual Income Tax Return
8865 Information Return for Certain Foreign Partnerships
2008 California Income Tax Return
California e-file Signature
2008 Colorado Income Tax Return
2008 Colorado Declaration for Electronic Filing
2008 New Mexico Income Tax Return
2008 New York Income Tax Return

Attached to your copy of each return is an instruction sheet for completing, signing and filing the return and payment of taxes due.

This letter and copies of the returns are for your records and should be retained for at least three years after the filing date.

We sincerely appreciate this opportunity to serve you. Please contact us if you have any questions or if we may be of further assistance.

Sincerely,

Ehrhardt Keefe Steiner & Hottman PC

Form 1040 Department of the Treasury - Internal Revenue Service		U.S. Individual Income Tax Return 2008		(99) IRS Use Only - Do not write or staple in this space.																																																																									
For the year Jan. 1-Dec. 31, 2008, or other tax year beginning		, 2008, ending		OMB No. 1545-0074																																																																									
Label (See instructions on page 14.) Use the IRS label. Otherwise, please print or type.	Your first name and initial GARY D		Last name MAGNESS		Your social security number [REDACTED]																																																																								
	If a joint return, spouse's first name and initial SARAH F		Last name SIEGEL		Spouse's social security number [REDACTED]																																																																								
	Home address (number and street). If you have a P.O. box, see page 14. 1200 17TH STREET SUITE 660				Apt. no.																																																																								
	City, town or post office, state, and ZIP code. If you have a foreign address, see page 14. DENVER CO 80202				You must enter your SSN(s) above.																																																																								
Presidential Election Campaign <input checked="" type="checkbox"/> Check here if you, or your spouse if filing jointly, want \$3 to go to this fund (see page 14) <input type="checkbox"/> You <input type="checkbox"/> Spouse																																																																													
Filing Status Check only one box. 1 <input type="checkbox"/> Single 2 <input checked="" type="checkbox"/> Married filing jointly (even if only one had income) 3 <input type="checkbox"/> Married filing separately. Enter spouse's SSN above and full name here. 4 <input type="checkbox"/> Head of household (with qualifying person). (See page 15.) If the qualifying person is a child but not your dependent, enter this child's name here. 5 <input type="checkbox"/> Qualifying widow(er) with dependent child (see page 16)																																																																													
Exemptions 6a <input checked="" type="checkbox"/> Yourself. If someone can claim you as a dependent, do not check box 6a b <input checked="" type="checkbox"/> Spouse c Dependents: <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>(1) First name</th> <th>Last name</th> <th>(2) Dependent's social security number</th> <th>(3) Dependent's relationship to you</th> <th>(4) <input checked="" type="checkbox"/> If qualifying child for child tax credit (see page 17)</th> <th>Boxes checked on 6a and 6b No. of children on 6c who:</th> </tr> </thead> <tbody> <tr> <td>C [REDACTED]</td> <td>B. M. [REDACTED]</td> <td>[REDACTED]</td> <td>CHILD</td> <td>X</td> <td>● lived with you 3</td> </tr> <tr> <td>C [REDACTED]</td> <td>B. M. [REDACTED]</td> <td>[REDACTED]</td> <td>CHILD</td> <td>X</td> <td>● did not live with you due to divorce or separation (see page 18)</td> </tr> <tr> <td>C [REDACTED]</td> <td>B. [REDACTED]</td> <td>[REDACTED]</td> <td>CHILD</td> <td></td> <td></td> </tr> </tbody> </table> If more than four dependents, see page 17. d Total number of exemptions claimed 5						(1) First name	Last name	(2) Dependent's social security number	(3) Dependent's relationship to you	(4) <input checked="" type="checkbox"/> If qualifying child for child tax credit (see page 17)	Boxes checked on 6a and 6b No. of children on 6c who:	C [REDACTED]	B. M. [REDACTED]	[REDACTED]	CHILD	X	● lived with you 3	C [REDACTED]	B. M. [REDACTED]	[REDACTED]	CHILD	X	● did not live with you due to divorce or separation (see page 18)	C [REDACTED]	B. [REDACTED]	[REDACTED]	CHILD																																																		
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Income Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld. If you did not get a W-2, see page 21. Enclose, but do not attach, any payment. Also, please use Form 1040-V.																																																																													
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td>7 Wages, salaries, tips, etc. Attach Form(s) W-2</td> <td>STMT. 1.</td> <td>7</td> <td>35,596.</td> </tr> <tr> <td>8a Taxable interest. Attach Schedule B if required</td> <td></td> <td>8a</td> <td>936,501.</td> </tr> <tr> <td>b Tax-exempt interest. Do not include on line 8a</td> <td>STMT. 1. 8b 136.</td> <td></td> <td></td> </tr> <tr> <td>9a Ordinary dividends. Attach Schedule B if required</td> <td></td> <td>9a</td> <td>1,606,695.</td> </tr> <tr> <td>b Qualified dividends (see page 21)</td> <td>STMT. 2. 9b 1,518,767.</td> <td></td> <td></td> </tr> <tr> <td>10 Taxable refunds, credits, or offsets of state and local income taxes (see page 22)</td> <td>STMT. 4.</td> <td>10</td> <td>NONE</td> </tr> <tr> <td>11 Alimony received</td> <td></td> <td>11</td> <td></td> </tr> <tr> <td>12 Business income or (loss). Attach Schedule C or C-EZ</td> <td></td> <td>12</td> <td>-1,050,525.</td> </tr> <tr> <td>13 Capital gain or (loss). Attach Schedule D if required. If not required, check here <input type="checkbox"/></td> <td></td> <td>13</td> <td>4,825,466.</td> </tr> <tr> <td>14 Other gains or (losses). Attach Form 4797</td> <td></td> <td>14</td> <td></td> </tr> <tr> <td>15a IRA distributions 15a</td> <td></td> <td>b Taxable amount (see page 23) 15b</td> <td></td> </tr> <tr> <td>16a Pensions and annuities 16a</td> <td></td> <td>b Taxable amount (see page 24) 16b</td> <td></td> </tr> <tr> <td>17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E</td> <td></td> <td>17</td> <td>-5,912,967.</td> </tr> <tr> <td>18 Farm income or (loss). Attach Schedule F</td> <td></td> <td>18</td> <td>-241,242.</td> </tr> <tr> <td>19 Unemployment compensation</td> <td></td> <td>19</td> <td></td> </tr> <tr> <td>20a Social security benefits 20a</td> <td></td> <td>b Taxable amount (see page 26) 20b</td> <td></td> </tr> <tr> <td>21 Other income. List type and amount (see page 28) SEE STATEMENT 2</td> <td></td> <td>21</td> <td>902.</td> </tr> <tr> <td>22 Add the amounts in the far right column for lines 7 through 21. This is your total income</td> <td></td> <td>22</td> <td>200,426.</td> </tr> </table>						7 Wages, salaries, tips, etc. Attach Form(s) W-2	STMT. 1.	7	35,596.	8a Taxable interest. Attach Schedule B if required		8a	936,501.	b Tax-exempt interest. Do not include on line 8a	STMT. 1. 8b 136.			9a Ordinary dividends. Attach Schedule B if required		9a	1,606,695.	b Qualified dividends (see page 21)	STMT. 2. 9b 1,518,767.			10 Taxable refunds, credits, or offsets of state and local income taxes (see page 22)	STMT. 4.	10	NONE	11 Alimony received		11		12 Business income or (loss). Attach Schedule C or C-EZ		12	-1,050,525.	13 Capital gain or (loss). Attach Schedule D if required. If not required, check here <input type="checkbox"/>		13	4,825,466.	14 Other gains or (losses). Attach Form 4797		14		15a IRA distributions 15a		b Taxable amount (see page 23) 15b		16a Pensions and annuities 16a		b Taxable amount (see page 24) 16b		17 Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E		17	-5,912,967.	18 Farm income or (loss). Attach Schedule F		18	-241,242.	19 Unemployment compensation		19		20a Social security benefits 20a		b Taxable amount (see page 26) 20b		21 Other income. List type and amount (see page 28) SEE STATEMENT 2		21	902.	22 Add the amounts in the far right column for lines 7 through 21. This is your total income		22	200,426.
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For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see page 88.

8A1210 2.000

Form 1040 (2008)

JSA TW4691 N752

GTS 2526-13

Form 1040 (2008) GARY D MAGNESS & SARAH F SIEGEL

Page 2

Tax and Credits

38	Amount from line 37 (adjusted gross income)	38	177,633.
39a	Check <input type="checkbox"/> You were born before January 2, 1944, <input type="checkbox"/> Blind. <input type="checkbox"/> Total boxes checked <input type="checkbox"/> 39a		
	if: <input type="checkbox"/> Spouse was born before January 2, 1944, <input type="checkbox"/> Blind. <input type="checkbox"/> 39b		
	b If your spouse itemizes on a separate return or you were a dual-status alien, see page 34 and check here <input type="checkbox"/> 39b		
	c Check if standard deduction includes real estate taxes or disaster loss (see page 34) <input type="checkbox"/> 39c		
40	Itemized deductions (from Schedule A) or your standard deduction (see left margin)	40	5,107,604.
41	Subtract line 40 from line 38	41	-4,929,971.
42	If line 38 is over \$119,975 or you provided housing to a Midwestern displaced individual, see page 36. Otherwise, multiply \$3,500 by the total number of exemptions claimed on line 6d	42	17,500.
43	Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-	43	
44	Tax (see page 36). Check if any tax is from: a <input type="checkbox"/> Form(s) 8814 b <input type="checkbox"/> Form 4972	44	NONE
45	Alternative minimum tax (see page 39). Attach Form 6251	45	NONE
46	Add lines 44 and 45	46	NONE
47	Foreign tax credit. Attach Form 1116 if required	47	
48	Credit for child and dependent care expenses. Attach Form 2441	48	
49	Credit for the elderly or the disabled. Attach Schedule R	49	
50	Education credits. Attach Form 8863	50	
51	Retirement savings contributions credit. Attach Form 8880	51	
52	Child tax credit (see page 42). Attach Form 8901 if required	52	
53	Credits from Form: a <input type="checkbox"/> 8396 b <input type="checkbox"/> 8839 c <input type="checkbox"/> 5695	53	
54	Other credits from Form: a <input type="checkbox"/> 3800 b <input type="checkbox"/> 8801 c <input type="checkbox"/>	54	
55	Add lines 47 through 54. These are your total credits	55	
56	Subtract line 55 from line 46. If line 55 is more than line 46, enter -0-	56	NONE
57	Self-employment tax. Attach Schedule SE	57	22,909.
58	Unreported social security and Medicare tax from Form: a <input type="checkbox"/> 4137 b <input type="checkbox"/> 8919	58	
59	Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	59	
60	Additional taxes: a <input type="checkbox"/> AEIC payment b <input type="checkbox"/> Household employment taxes. Attach Schedule H	60	
61	Add lines 56 through 60. This is your total tax	61	22,909.

Other Taxes**Payments**

If you have a qualifying child, attach Schedule EIC.

62	Federal income tax withheld from Forms W-2 and 1099	62	2,008.
63	2008 estimated tax payments and amount applied from 2007 return	63	698,335.
64a	Earned income credit (EIC)	64a	
	b Nontaxable combat pay election <input type="checkbox"/> 64b		
65	Excess social security and tier 1 RRTA tax withheld (see page 61)	65	
66	Additional child tax credit. Attach Form 8812	66	
67	Amount paid with request for extension to file (see page 61)	67	NONE
68	Credits from Form: a <input type="checkbox"/> 2439 b <input type="checkbox"/> 4136 c <input type="checkbox"/> 8801 d <input type="checkbox"/> 8885	68	
69	First-time homebuyer credit. Attach Form 5405	69	
70	Recovery rebate credit (see worksheet on pages 62 and 63)	70	
71	Add lines 62 through 70. These are your total payments	71	700,343.

Refund

Direct deposit? See page 63 and fill in 73b, 73c, and 73d, or Form 8888.

72	If line 71 is more than line 61, subtract line 61 from line 71. This is the amount you overpaid	72	677,387.
73a	Amount of line 72 you want refunded to you. If Form 8888 is attached, check here <input type="checkbox"/> 73a		
	b Routing number <input type="text"/>		
	c Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings		
	d Account number <input type="text"/>		
74	Amount of line 72 you want applied to your 2009 estimated tax	74	677,387.

Amount You Owe

75	Amount you owe. Subtract line 71 from line 61. For details on how to pay, see page 65	75	
76	Estimated tax penalty (see page 65)	76	47.

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see page 66)? ☒ Yes. Complete the following. ☐ No

Designee's name <input type="text"/>	Phone no. <input type="text"/>	Personal identification number (PIN) <input type="text"/>
--------------------------------------	--------------------------------	---

Sign Here

Joint return? See page 15. Keep a copy for your records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature CLIENT COPY	Date <input type="text"/>	Your occupation RANCH MANAGER	Daytime phone number <input type="text"/>
Spouse's signature. If a joint return, both must sign.	Date <input type="text"/>	Spouse's occupation INVESTOR	

Paid

Preparer's Use Only

Preparer's signature Yvonne Z. Magness	Date 10/13/2009	Check if self-employed <input type="checkbox"/>	Preparer's SSN or PTIN P00349513
Firm's name (or yours if self-employed) EHRHARDT KEEFE STEINER & HOTTMAN PC	EIN 7979 E. TUFTS AVENUE, SUITE 400	Phone no 303-740-9400	
address, and ZIP code DENVER	CO 80237-2843		

JSA
8A122D 2.000

Form 1040 (2008)

TW4691 N752

GTS 2526-13

Form **8275**
(Rev. August 2008)Department of the Treasury
Internal Revenue Service

Name(s) shown on return

Gary Magness

Disclosure Statement

Do not use this form to disclose items or positions that are contrary to Treasury regulations. Instead, use Form 8275-R, Regulation Disclosure Statement. See separate instructions.

▶ Attach to your tax return.

OMB No. 1545-0089

Attachment
Sequence No. **92**

Identifying number shown on return

Part I General Information (see instructions)

(a) Rev. Rul., Rev. Proc., etc.	(b) Item or Group of Items	(c) Detailed Description of Items	(d) Form or Schedule	(e) Line No.	(f) Amount
1 N/A	Cash	Cash received from Stanford International Bank Ltd.	N/A	N/A	\$8,824,514.21
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Part II Detailed Explanation (see instructions)

1 See Part IV.

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Part III Information About Pass-Through Entity. To be completed by partners, shareholders, beneficiaries, or residual interest holders.

Complete this part only if you are making adequate disclosure for a pass-through item.

Note: A pass-through entity is a partnership, S corporation, estate, trust, regulated investment company (RIC), real estate investment trust (REIT), or real estate mortgage investment conduit (REMIC).

1 Name, address, and ZIP code of pass-through entity	2 Identifying number of pass-through entity
	3 Tax year of pass-through entity / / to / /
	4 Internal Revenue Service Center where the pass-through entity filed its return

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 61935M

Form **8275** (Rev. 8-2008)

Part IV Explanations (continued from Parts I and/or II)

Explanation of Item 1:

Taxpayer, through his disregarded single member LLCs, GMAG, LLC (EIN [REDACTED]) and Magness Securities, LLC (EIN [REDACTED]), invested in Stanford International Bank CDs in 2004 and 2005. The face amount of the GMAG CDs was \$15 million and the face amount of the Magness Securities CDs was \$9 million. In October 2008, the Taxpayer received funds from Stanford as a loan secured by the CDs. Due to the investigation of Stanford which was active in 2008, the Taxpayer was concerned that his CD principal was in jeopardy. Stanford agreed to apply outstanding accrued CD interest of \$8,824,514.21 to pay off the loan. The cash received is a return of principal and not interest for the following reasons:

1. The funds received are a return of principal, under the theories set forth in *Liftkin v. Comm'r*, 36 T.C. 909 (1961), *Electric Controls and Serv. Co. v. Comm'r*, T.C. Memo 1996-486 (1996), *Underhill v. Comm'r*, 45 T.C. 489 (1966), and *Corn Exchange Bank v. U.S.*, 37 F.2d 34 (2d Cir. 1930).
2. In the complaint filed by the SEC in *SEC v. Stanford International Bank, et al*, N.D. Texas, Docket No. 3-09-CV-0724-N the purported interest received by Stanford investors was not truly interest because it was not money generated by a return on their investment. Therefore, the funds are subject to substantial risk of forfeiture.
3. The funds received are subject to a substantial risk of forfeiture because the receiver has asserted that the Taxpayer is a relief defendant and that the funds received should be put into a constructive trust for all Stanford investors.

APPENDIX K

The Magness Investment Group, LLC



Date: October 14, 2008

*One Tabor Center
1200 Seventeenth Street Suite 600
Denver, Colorado 80202-5835
303-572-6400 tele
303-572-6464 fax*

Stanford International Bank Ltd.
2000 Airport Boulevard
St. John's, Antigua
West Indies

RE: CD Account #140392, N/O, Magness Securities, LLC
CD Account #140403, N/O, Magness Securities, LLC

To whom it may concern;

Regarding the Stanford International Bank CD Accounts referenced above, please transfer all of the accrued interest to date on the CD's noted above to the Magness Loan Account (#386384).

If you have any questions or require additional information, please contact my representative, Mr. Thomas Espy at 303-398-1988.


Thank you.

Gary D. Magness
Magness Securities, LLC

Plaintiff's
Exhibit

81

000023

The  *Investment Group, LLC*

Date: October 14, 2008

*One Tabor Center
1200 Seventeenth Street Suite 660
Denver, Colorado 80202-5835
303-572-6400 tele
303-572-6464 fax*

Stanford International Bank Ltd.
2000 Airport Boulevard
St. John's, Antigua
West Indies

RE: CD Account #126028, N/O GMAG, LLC
CD Account #126029, N/O GMAG, LLC

To whom it may concern;

Regarding the Stanford International Bank CD Accounts referenced above, please transfer all of the accrued interest to date on the CD's noted above to the Magness Loan Account (#386384).

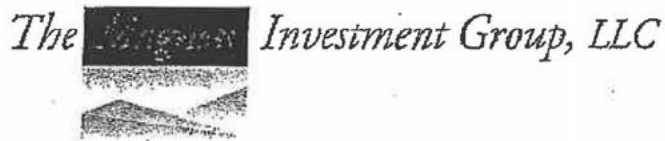
If you have any questions or require additional information, please contact my representative, Mr. Thomas Espy at 303-398-1988.

Thank you.



Gary D. Magness, Manager
GMAG, LLC

000024



Date: October 14, 2008

*One Tabor Center
1200 Seventeenth Street Suite 660
Denver, Colorado 80202-3835
303-572-6400 tele
303-572-6464 fax*

Stanford International Bank Ltd.
2000 Airport Boulevard
St. John's, Antigua
West Indies

RE: CD Account #129187, N/O, Gary D. Magness Irrevocable Trust
CD Account #133200, N/O, Gary D. Magness Irrevocable Trust
CD Account #154864, N/O, Gary D. Magness Irrevocable Trust
CD Account #154866, N/O, Gary D. Magness Irrevocable Trust
CD Account #155014, N/O, Gary D. Magness Irrevocable Trust

To Whom It May Concern:

Regarding the Stanford International Bank CD Accounts referenced above, please transfer all of the accrued interest to date on the CD's noted above to the Magness Loan Account (#386384).

If you have any questions or require additional information, please contact my representative, Mr. Thomas Espy at 303-398-1988.

Thank you.

A handwritten signature in dark ink, appearing to read "Gary D. Magness". The signature is written over a horizontal line.

Gary D. Magness
Gary D. Magness Irrevocable Trust

000025

APPENDIX L

Tonya Dokken

From: Tonya Dokken
Sent: Tuesday, October 21, 2008 3:21 PM
To: Meghan St. Clair
Subject: FW: Stanford International Bank Interest Figures

FYI - for the financials.

Also, I drew \$761,336 from Gary ML to pay off this balance plus accrued interest. We had to pay off the total \$25 million before we could draw the \$44 million.

Tonya Dokken
Chief Financial Officer
Magness Investment Group
1200 17th Street, Suite 660
Denver, Colorado 80202
(303) 572-6400 (phone)
(303) 572-6464 (fax)
email - tonya@magness.net

From: McGowan, Pamela [<mailto:PMcgowan@StanfordEagle.com>]
Sent: Tuesday, October 21, 2008 11:08 AM
To: Tonya Dokken
Cc: Espy, Tom
Subject: RE: Stanford International Bank Interest Figures

Tonya-

The following are the interest amounts that were moved from the various Stanford CD accounts on Monday, October 20, 2008 to pay down loan amount:

GMAG, LLC CD Accounts

CD# 126028 \$2,040,263.10
CD# 126029 \$4,104,516.81

Magness Securities, LLC CD Account

CD# 140392 \$2,679,734.30

Gary D. Magness Trust CD Accounts

CD# 129187 \$7,748,185.10
CD# 133200 \$1,775,212.89
CD# 154864 \$1,989,347.93
CD# 154866 \$1,989,347.93
CD# 155014 \$1,989,349.08

The current loan balance after these interest amounts have been applied is \$760,836.67.

Thanks
Pam

Plaintiff's
Exhibit

93

CONFIDENTIAL

MAGNESS002320

Any information or data provided in this message has been obtained from sources we believe to be reliable, but we do not guarantee its accuracy or completeness. Such information reflects current market conditions, is subject to change without notice and should not be relied upon for tax purposes. Any transactional details are provided at your request and do not supersede your normal trade confirmations or monthly statements. Any product recommended is subject to prior sale. Stanford Group Company, its affiliated companies, and/or officers, directors or employees, may at times have a position in or make a market in any security described above, and/or may act as an investment banker or advisor to any company referenced. Stanford Group Company reserves the right to monitor and review the content of all e-mail communications sent and/or received by its employees. Stanford Group Company does not accept time-sensitive transactional messages, including orders to buy and sell securities, via e-mail. This information is intended to be confidential and solely for the use of Stanford Group Company and those persons or entities to whom it is directed. It is not to be reproduced, retransmitted, or in any other manner redistributed. If you received this message in error, please contact Stanford Group Company immediately at 800-958-0009.

APPENDIX M

SEC Investigating Stanford Group Offshore CDs, Investments
2008-07-03 19:27:32.90 GMT

By Alison Fitzgerald

July 3 (Bloomberg) -- The U.S. Securities and Exchange Commission is investigating sales of certificates of deposit by Stanford Group Company in its affiliated Antigua-based offshore bank.

The SEC issued subpoenas yesterday to two former Stanford Group employees asking for information about the CD sales by its offshore bank, Stanford International Bank Ltd. The subpoenas also demanded sales-training materials for the CDs and so-called mutual fund wrap programs, which are portfolios of diversified mutual funds. The companies are owned by billionaire R. Allen Stanford.

The subpoenas were provided to Bloomberg News by Mike O'Brien, the Houston-based attorney for two former employees, Charles Rawl and Mark Tidwell. They are both suing Houston-based Stanford Group, accusing the company of forcing them to resign because they did not want to participate in illegal activities that they say Stanford Group was requiring them to carry out.

Stanford Group spokeswoman Lula Rodriguez said the company is ``not aware of any formal actions by the SEC related to either Mr. Tidwell or Mr. Rawl or connected to any of our clients.''

Rodriguez said the allegations ``have been made by disgruntled employees and are totally without merit.''

SEC spokesman John Nester said the agency does not confirm or deny the existence of an investigation. Rawl and Tidwell were both investment advisers for Stanford Group in Houston.

‘Leave That Place’

``All we wanted to do was leave that place, get out of there and get our clients out safe and sound,' ' Rawl said in an interview.

In the lawsuit, Rawl and Tidwell claim that the company failed to file forms to the U.S. Treasury Department disclosing its clients' offshore holdings and did not advise its clients to file those forms.

The lawsuit also alleges that Stanford Group purged files and destroyed documents as early as last year related to what Tidwell and Rawl claim is an ongoing SEC investigation regarding the CD sales practices. The lawsuit alleges that the company gave clients false historical performance data for its securities.

In court papers, Stanford Group said it had fired Tidwell and Rawl and that the two owe the company repayment of loans made to them.

Rawl said he owes Stanford Group \$579,441. He said the company paid him a bonus upon his hiring in 2005 that would vest over time and that he was required to pay back when he left the company early. Tidwell owes the company \$155,598, according to court papers filed by Stanford Group.

R. Allen Stanford was ranked the 605th-richest person in the world by Forbes Magazine this year, with an estimated net worth of \$2.0 billion. Stanford International Bank had \$6 billion in assets as of July, 2007, the company said on its Web site.

--Editors: Michael Forsythe, Otis Bilodeau

To contact the reporter on this story:

Alison Fitzgerald in Washington at +1-202-624-1846 or Afitzgerald2@bloomberg.net

To contact the editor responsible for this story:

Michael Forsythe +1-202-624-1840 or mforsythe@bloomberg.net

APPENDIX N



STANFORD INTERNATIONAL BANK, LTD.

Quarterly Update

STANFORD INTERNATIONAL BANK, LTD. • 11 Pavilion Drive • P.O. Box 3300 • St. John's Antigua, West Indies • Telephone: (268) 480-3700

April 1, 2008 – June 30, 2008



MARKET RECAP & OUTLOOK

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Allocations

Financial &
Economic
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MARKET RECAP

United States/Canada

The second quarter of 2008 continued to exhibit the large volatility experienced during the first quarter. The first half of the second quarter saw stocks rally 14.66% off of the low set in mid-March, but from mid-May through the end of the quarter, equities sank back to the lowest levels of the year. The market volatility can be attributed to the continuation, and expansion in some cases, of the credit crunch. Credit conditions have worsened, and the market participants simply do not know how to react to the potential meltdown. As a result, financial stocks have been slammed and have taken the market down with them. Compounding the problem is the continued surge in crude oil prices. Crude oil futures prices were up nearly 40% in the second quarter alone. This large gain comes on the heels of an already extreme move, taking oil above \$145 per barrel. Economic conditions have continued to flounder and inflation figures have reached very high levels. The Federal Reserve seems to be stuck between an economy that has massive headwinds to growth and inflation figures that risk spiraling out of control. As a result, the actions of the Federal Open Market Committee have become much more difficult to anticipate. The downside risks to economic growth currently seem to outweigh inflation prospects, but the impact on the markets will continue to linger from both sides.

Western Europe

The main development within Western Europe in the last quarter appears to be the combination of persistent high inflation in the region with divergence between individual economies while the regional economy as a whole has shown resiliency. The second estimate of first-quarter GDP came out better than expected at 0.8%. Exports and investment recorded gains from the previous quarter, and the main disappointment came from household spending growth (up by only 0.2%). The past improvements in the labor market have been expected to support consumer spending, but for now, domestic spending has not been able to offset the overall slowing external demand. Recent unemployment reports suggest that the improvements in the labor market over the last three years is finally coming to an end. The number of unemployed posted its first monthly increase in April since January 2006. Portugal's economy contracted during the first quarter and Spain's growth was the slowest since Q3 of 1995. Italy's economy only expanded by 0.2% year-over-year in the same quarter. At the same time, economic growth in Germany, which is Europe's largest economy, expanded the most in 12 years during

the same time period. Regarding inflation, prices increased at an annual rate of 3.7% in May, a 16-year high, and investors' inflation expectations continue to rise. European food prices rose 6% in April year-over-year, while energy costs soared 10.8%. As a result, expectations for official interest rates in the region dramatically changed in June. There has been a complete readjustment on the expected future course of monetary policies in the region. The European Central Bank (ECB) left rates unchanged at 4% in June, but indicated that policymakers may raise rates in July due to higher inflation expectations. Western European equities have continued to underperform this year, as expected. The Dow Jones STOXX 600 index (SXXP), the benchmark for Western European stocks, was down more than 20% year-to-date as of June 30. Yield curves have become much flatter with higher inflation expectations. Western European sovereigns have underperformed U.S. Treasuries thus far this year. The euro (EUR) was basically flat for the quarter, but it fluctuated in a range from about 1.53 to about 1.60.

Eastern Europe

All Eastern European markets were in negative territory for the second quarter except for Russia's, which was up 8.7% even after a 9.9% decline from its highest level in the middle of May. The biggest gains were sustained by agricultural chemical companies as food shortages, particularly in the biggest metropolitan areas, significantly increased food prices and contributed to strong inflation. Russia's inflation actually reached 15% in May, the highest rate in 5.5 years. To combat inflation the central bank has increased bank reserve requirements and raised the benchmark interest rate by 75 basis points this year. The next best second-quarter performers in Russia's equity market were steel and energy companies. A major causative factor for this quarter's significant increase in oil company values was that in April the government reduced oil extraction taxes amounting to \$4 billion to help finance exploration and development of new fields as an incentive to maintain output. However, not all oil companies will benefit from this tax break because it only applies to proceeds from oil fields that are remote or otherwise difficult to exploit. With regard to other countries in the region, the sell-off was influenced by liquidity constraints and fear of the U.S. economy sliding into a recession. The Austrian stock market had a very strong rebound in the first half of the quarter followed by a significant sell-off consistent with the U.S. market decline. U.S. investors represent the largest portion of Austria's institutional investors at 27.8%, while Austrian institutional investors represent only 8.5%. This

partially explains the Austrian market's high correlation with the U.S. market. The Czech equity market declined into negative territory even after adjustment for the stellar performance of the koruna, which made market losses significantly less in dollar terms. The Turkish, Hungarian, and Polish equity markets continued to perform poorly, sustaining new losses. The Czech Republic and Poland experienced increased political tension with Russia. Because of Turkey's increased political uncertainty, high correlation with troubled Western economies, and dependence on short-term financing, its financial markets were especially vulnerable in the second quarter. Consequently, Turkey's market experienced the highest losses.

Asia Pacific

In the second quarter, Asia Pacific (APAC) equities again tracked the performance of U.S. equities, rebounding first and then losing steam toward the end of the second quarter. The MSCI Asia Pacific Index (MXAP) was down 13.3% in the first half of 2008, compared to the 12.8% loss of the S&P 500 Index (SPX). The key risk for APAC equities continues to be the U.S. slowdown. Sentiment in Asia is still dominated by the concerns that a U.S. slowdown is going to impact revenue and earnings growth in the region. At the same time, rising inflation is limiting the ability of many Asian governments to cut interest rates to boost growth. While all major benchmark indexes in Asia Pacific are negative for the year, strong local currencies in some countries have offset some of the losses in the equity markets for U.S. dollar-based portfolios. This has been the case in Japan, Australia, Taiwan, and Singapore. On the other hand, some Asian currencies have depreciated against the U.S. dollar so far this year. For example, the Indian rupee (INR) is hurt by the poor equity performance as foreign investors sold Indian stocks. Among APAC countries, there have been fairly strong mean-reverting performances in APAC equity markets so far this year. Markets that performed the best in the past couple of years, such as China, India, and Vietnam, have been the worst performers so far this year. On the other hand, previous losers, such as Japan, have taken a much smaller hit this year thanks to lower valuations and lower expectations.

Latin America

Latin American markets, as a whole, were one of the few bright spots in the world during the second quarter as solid profits, a buoyant economy, improved creditworthiness, and sky-rocketing commodity prices all converged to push up major equity indices, while currencies continued their strengthening trend against the U.S. dollar (USD). Indeed, the major regional equity benchmark gained more than 6% in the quarter, although it was significantly off from highs recorded in May. Brazil especially has benefited from very favorable domestic and global fundamentals, as the country was awarded investment grade by two agencies in the second quarter, while oil and other commodities improved the bottom lines of the heaviest-weighted stocks in the Bovespa index. Nevertheless, the markets were very volatile and subject to both internal factors (specifically inflation and monetary policy, but also a peak in economic activity growth) and external concerns, mostly from the liquidity crunch in the United States and its impact on global commodity demand. As for the other regional giant, Mexico, the economy showed signs of resilience, albeit below regional average results, in the wake of continued uncertainties north of the border. Equity markets focused on the negative situation in the United States, as well as external supply shocks that have crimped the bottom line of many Mexican industrial manufacturers. Monetary policymakers in the region exercised increased independence in the face of a mounting inflationary threat in most major countries, continuing the tightening cycle begun last year or early this year. Brazil raised rates by 100 basis points to cool domestic demand, while authorities in Colombia, Mexico, Chile, and Peru also found it prudent to bring CPI back into the target range (which exceeds the target substantially in all of those countries). Local bond yields rose in response, especially on the short end, but sovereign spreads for global bonds remained tight, pointing to a secular change in the economic structure and sustainability during these trying times for the higher-rated sovereigns, although not for the lesser-rated ones. Overall, the region once again proved resilient even as uncertainties mounted abroad.

Middle East/Africa

Middle Eastern markets continued to perform fairly well during the second quarter, despite the global economic weakness that has negatively affected markets throughout other regions. The economic fundamentals that drive the Middle East markets remained solid throughout the quarter as most of its economies do not carry any significant correlation with the Western economies. Therefore, the region continued to experience attractive growth in key economies despite ongoing inflation woes. Inflation continued to increase in most Gulf Cooperation Council (GCC) countries, but was most pronounced in Qatar and the United Arab Emirates (UAE), where consumer price growth is well in excess of 10%. Pricing pressures have been generated from a variety of sources. Additionally, concerns remained centered around the weakness in the U.S. dollar (USD) for the entire quarter, which created pressure for countries such as Qatar and Bahrain where the weak USD has contributed to imported inflation. Due to the region's dramatic increase in wealth as a result of high and sustained oil prices, regions such as the Gulf Cooperation Council (GCC) continued to contend with worrisome high inflation throughout the quarter as result of increased price pressures in housing, food, rent, and currency pegs to the ailing dollar, which has driven up import costs. Nonetheless, investment opportunities into this region have continued to grow with projects worth more than \$931 billion currently underway. Additionally, some of the indexes in the region have also experienced exceptional growth within the first half of 2008; however, risk aversion remains high.

MARKET OUTLOOK

United States/Canada

Equity markets have plunged in the first two quarters of the year, but the outlook carries a much more upbeat tone. Valuations are low by historical standards, and psychological indicators are providing evidence that a bottom may be forming. From a contrarian point of view, several data points indicate the bad news for the market as of late should be good news for the longer-term health of equities. For example, consumer confidence has hit a historical low, and contrarian studies show that very low confidence points to above-average equity returns for the coming 12 months. Additionally, the jump in unemployment in recent months also carries high correlation with positive equity market returns. Economic variables tend to lag equity market conditions. If the economy is expected to find its footing in the first half of next year, the stock market should begin to signal that turnaround in the coming quarter. The Federal Reserve is likely on hold from an interest rate standpoint, which should allow previous rate cuts to permeate the monetary system. If some pressure from oil prices can be relieved, the market could get a spark for an extended rally to ensue for the next several quarters. The primary caveat remains the credit crisis. As long as banks continue to close their doors, both by going out of business or simply by not lending, the headlines may prove to be too large a weight for stocks to carry.

Western Europe

Current GDP fan charts in the region are negatively skewed to the downside, while inflation forecasts are skewed to the upside. The U.K. and Spanish economies especially appear to be at risk. The region, as a whole, is still expected to grow by about 1.7% this year. Producer price inflation increased from 5.8% to 6.1% in April, which leaves a gloomy picture for core consumer price inflation going forward. The European Central Bank (ECB) is very concerned about second-round effects and will act to avoid them if necessary. The ECB will also closely monitor wage negotiations and price-setting behavior in the euro area. The central bank will therefore be data dependent when adjusting monetary policy going forward. In the central bank's view the economic fundamentals are currently sound, and according to the bank, an un-anchoring of inflation expectations would lead to a financial environment that would be adverse to growth and job creation. The current economic slowdown in the region has thus far not led the ECB to consider lowering rates. The ECB is no longer expected to start an easing cycle in the foreseeable future. Rates will likely go up in July by 25 basis points to 4.25%,

but may remain unchanged for the rest of the year. It will likely be hard to justify a second rate hike with slowing economic activity. With everything else being equal, recent news will support the euro currency, but going forward, the global environment should favor the U.S. dollar (USD). In the near term, the delay of starting an easing cycle from the ECB could holdup a trend reversal for the USD. Additional tightening from the ECB may limit EUR weakness for the time being, but the probability of the market focusing on the future course of interest rate differentials versus specific levels is quite high, which favors the dollar. Regarding bonds, yields in the short-end of the yield curve have dramatically increased due to concern about the outlook on inflation and monetary policy, especially after hawkish comments from the ECB. The recent decline has actually caused an inverted yield curve with yields on 2-year notes above those on 10-year bonds as investors have priced in potential rate hikes. Going forward, yields may not increase much more. Resistance is visible around 4.75% and is expected to hold. Current expectations of 2 to 3 rate hikes from the ECB going forward appear exaggerated. An adjustment is therefore likely, which is leaving room for a short-term opportunity in the short-end of the yield curve. Regarding equities, sentiment is expected to remain low due to continued concern over the liquidity crisis and commodity price induced inflation hurting profit margins. While upside potential for stocks in the region appears limited going forward, the downside risk appears limited as well. Valuations in the region are looking quite attractive, but the lack of a catalyst has thus far hindered a trend reversal from the experienced losses year-to-date.

Eastern Europe

Russia is the most attractive of all of the Eastern European countries; it has higher upside potential and lower downside risk. However, it must be noted that Russia is failing to control inflation. To protect exporters, mainly oil companies, the central bank has artificially kept the ruble undervalued. By the end of the year, inflation could reach 25% if the central bank refrains from setting policy that would allow the ruble to strengthen. However, soaring import prices, food prices in particular, cause widespread economic hardship, particularly for the large low-income segment of the population. So, soaring imported inflation may force the government to increase the value of the ruble.

Increased political tension between the Czech Republic and Poland with Russia will likely have a negative impact on the financial markets in all three countries. However, such strife will certainly hurt Poland and the Czech Republic the most. Russia has reduced its oil deliveries to the Czech Republic by almost 50% since the Czech government agreed to provide radar sites for the U.S. missile defense system. Czech officials have issued reassurances that this reduction will not derail the Czech economy, but a significant disruption with an associated trend in the equity market is expected. Poland is also negotiating an agreement to locate a missile-defense system on its territory, which makes it very vulnerable to similar treatment as it receives about 90% of its oil and almost 50% of its natural gas from Russia. Therefore, due to increased political turmoil in Poland, the Czech Republic, Hungary, and Turkey, and higher chances of the global economy sliding into recession, the financial markets in these countries are likely to remain volatile. Any strong rebound of their equity markets is unlikely in the short term. Of the economies in the region, Russia will likely be able to tolerate the global slowdown the best; its economy and equities will continue to be supported by high commodity prices since commodities represent the biggest segment of the Russian Trading Index (RTSI\$).

Asia Pacific

For the remainder of 2008, Asia Pacific's (APAC) outlook is clouded by the health of the U.S. economy, accelerating inflation in many APAC countries, and soaring energy and commodity prices. From a fundamental basis, favorable and unfavorable factors co-exist in the region. Strong economic growth and moderate valuations should support APAC equities, but earnings contraction is a major risk in the region. Asian equities are feeling the squeeze from multiple factors, including weakening demand due to a U.S. slowdown, high

commodity prices, higher borrowing costs, and high inflation, which paralyzes major central banks. From a technical standpoint, snap-back rallies in APAC equities could occur given the oversold condition. However, the previous uptrend has been broken. A downward shift in the Relative Strength Index (RSI) range could also indicate declining momentum in the region. Most importantly, external factors could easily over-power internal factors in the short term. The region's equity markets most likely will continue to be driven by U.S. equity movement in the short term. If oil prices decline from the current level or if U.S. inflation concerns subside, the U.S. equity markets could have a nice rebound, triggering an impressive rally in APAC equities. On the other hand, any further weakness in U.S. equities could send APAC equities down significantly. Finally, it is still attractive to use themes such as infrastructure, commodities, water, and agriculture as ways to play the secular Asia Pacific growth.

Latin America

Going into the second half of the year, from a medium- to long-term perspective, Latin America continues to be in a very strong position to capitalize on the changing dynamics of the global economy and its domestic market as well. Nevertheless, our short-term outlook has become much more cautious due to a wide array of factors that could combine to create a formidable headwind for the next few months. First, and perhaps most importantly, the renewed worries in the global financial markets in June remind us that the problems in the credit market have not been laid to rest. Although Latin America has been relatively immune to contagion over the past year, it will likely be increasingly more difficult for the region to remain so and decouple if the situation is prolonged. The current round of credit fears will also inject more volatility, especially in Brazil, which has high international investor exposure. On a related issue, the extreme volatility of energy prices in the second quarter, attentive to demand globally, will likely continue into the third, which will have a profound effect on Brazil. Strangely, in the second quarter, in days that oil fell and U.S. stocks rose on the news, Brazilian indexes lost ground. Therefore, a correction in oil could pose a significant short-term risk. Secondly, economic activity for the region as a whole, although not declining, does not appear to be gaining any steam either, limiting earnings growth for this year as well. Finally, inflation has become the number one concern for policymakers in the region, and tightening will likely continue in most if not all major countries. Monetary stability is extremely positive for regional long-term valuations, but higher rates do create some resistance for the equity market, especially in the banking and retail sectors, while local bond prices will also erode. If prices do not show signs of cooling by the end of the third quarter, the tightening campaign will likely continue into 2009, further deteriorating local bond prices and potentially stocks as well. However, strong solvency ratios and ample amounts of liquidity make global bonds more attractive from a fundamental level, and further credit ratings upgrades are likely by year-end. Overall, our short-term outlook is for caution, but our positive long-term view remains solidly intact.

Middle East

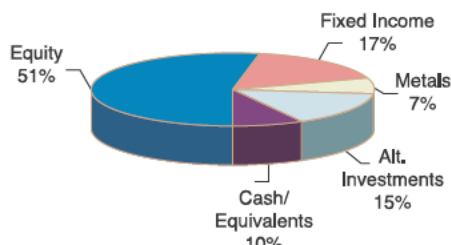
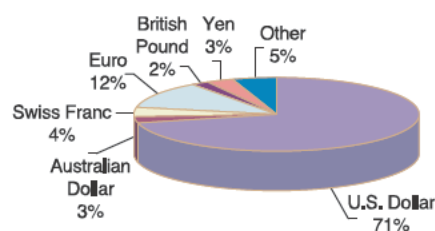
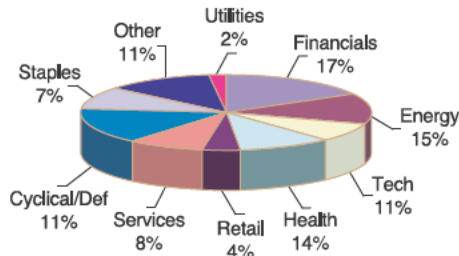
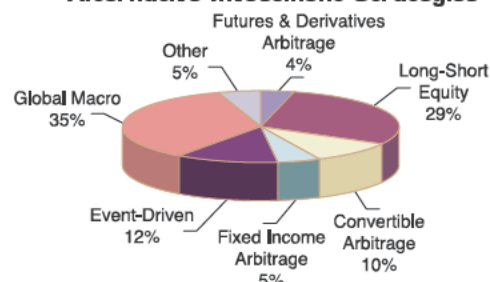
The fundamentals in the Middle East reveal a basis for good investment activity throughout the remainder of this year. Therefore, most markets should continue to experience positive growth as economic development increases in both public and private sectors. The region continues to display a good amount of resilience capped by massive liquidity that gives government officials and policymakers significant flexibility to manipulate the markets and policy in order to withstand external shocks and stimulate growth. The region currently has a combined nominal GDP of approximately \$1.2 trillion, which is approximately 2.6 % of global GDP. The financial power that comes as a result of energy profits due to world demand continues to give the Middle East a huge coffer from which to draw. Therefore, high growth expectations are anticipated for a number of years due to elevated crude oil prices boosting staggering revenues, which ultimately creates huge fiscal and current account surpluses in oil-producing countries.



PORTFOLIO ADJUSTMENTS

Financials were by far the worst performer for the second quarter. A defensive strategy was utilized by focusing on preferred issues and non-U.S. banks. Financials may be volatile for the next quarter or two, so we lowered the exposure to this group to see if we could pick up better opportunities later. Energy was by far our strongest performer for the quarter, helping to neutralize the portfolio's exposure to financials. Longer-term, this group should continue to be a strong performer due to above-average growth from India and China. From a valuation standpoint, most of the energy related stocks are trading as if oil was at \$70 a barrel. This valuation gap should close going forward. Technology exposure rose slightly during the quarter. Firms specializing in solar cells look attractive at current levels and offer above-average returns going forward. We slightly lowered our Healthcare allocation due to rebalancing. However, this area still remains one of our favorites going forward due to attractive valuations and improving demographics. No changes occurred to Retail as we are becoming increasingly bearish on the group. It will be hard for consumers to make unnecessary purchases with oil at more than \$130 per barrel. The Service allocation slightly decreased during the quarter due to several stocks hitting our profit targets.

The proceeds from these were redirected to areas we felt offered better value. Exposure was increased to the Cyclical & Defense area. This group is producing strong free cash flow, and it would not be surprising to see some merger and acquisition activity within the group. The portfolio's exposure to Staples was also increased as more of a defensive play due to slowing growth in the United States and abroad. The "Other" allocation slightly decreased during the quarter. As for Currency allocations, we increased exposure to the U.S. dollar (USD). The USD is extremely oversold at this juncture, and if the European Central Bank (ECB) gives any hints to a rate reduction in Europe, a new bull market for the USD could develop. The Metals allocation preformed well during the quarter; however, there was some disappointed overall. This group should have performed even better due to tension in the Middle East. Alternatives were a strong performer during the quarter, especially the funds that took up short positions in the markets earlier in the year. Overall, the portfolio performed considerably well based on market conditions. The portfolio's cash position is strong, and we plan to put this money to work as the year unfolds. Energy, Agriculture, Basic Materials, and Healthcare remain our favorite themes for the year.

Product Allocations**Currency Allocations****Sector Allocations****Alternative Investment Strategies****FINANCIAL & ECONOMIC HIGHLIGHTS****Treasury Bond Yields (6/30/08)**

2 yr.	2.620%
5 yr.	3.329%
10 yr.	3.971%
30 yr.	4.525%

Index Returns**(Percent Change YTD as of 6/30/08)**

Dow Jones Industrial Average ..	-14.4353%
Dow Jones Stoxx 50 (Europe) ..	-21.1025%
NASDAQ 100 Stock Index	-11.8872%
S&P 500	-12.8279%

**SIBL Flex CD Rates (as of 6/30/08)
(Based Upon \$100,000 Deposits)**

3M.	2.250%
6M.	3.250%
1yr.	4.500%
3yr.	5.375%

*** SIBL Data (6/30/08)**

Total Assets	\$8,102,870,766
Total Net Worth	\$406,076,250
Year-to-Date Earnings	\$16,154,489
Investment Portfolio	\$8,002,584,751

Interest Rates (6/30/08)

3M. LIBOR Fixed	2.783%
6M. LIBOR Fixed	3.109%
1yr. LIBOR Fixed	3.311%
Prime Rate	5.000%

* Unaudited figures are subject to adjustment.

DISCLAIMER FOR RESEARCH

The views expressed herein represent the individual author's personal opinions and are not and should not be construed as the opinions of Stanford International Bank, Limited, its agents, officers, directors or shareholders or any one of its affiliated companies. The authors have relied on sources, which are generally reliable; however, no representations or assurances can be made as to their validity.

Any opinion stated herein does not necessarily reflect the opinions and investment strategy of Stanford International Bank, Limited. There is no guarantee that any positions, investments or strategies set forth herein will remain the same after the date of this publication. In addition, past performance is not a guarantee of future results.

APPENDIX O



INTERNATIONAL PRIVATE BANKING

Plaintiff's
Exhibit

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STANFORD INTERNATIONAL BANK LTD.

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STANFORD FINANCIAL GROUP

Stanford Financial Group is a privately held, wholly owned global group of independent financial services companies founded in 1932 by Lodis B. Stanford, grandfather to the current sole shareholder Sir Allen Stanford. Stanford's core businesses are private wealth management and investment banking for institutions and emerging growth companies. Stanford provides private and institutional investors with global expertise in asset allocation strategies, investment advisory services, equity research, international private banking and trust administration, commercial banking, investment banking, merchant banking, institutional sales and trading, real estate investment and insurance. Stanford serves clients from over 100 countries on six continents.

Stanford International Bank is a member of Stanford Financial Group.





S T A N F O R D I N T E R N A T I O N A L B A N K L T D.



Stanford International Bank Ltd. conducts business with the world from its headquarters in Antigua. As a member of the Stanford Financial Group, the Bank adheres to business principles grounded in 75 years of proven financial success. Today, Stanford International Bank serves a worldwide community of affluent individuals and their families. Our unique private banking business model provides for the preservation of capital in an atmosphere of professionalism and trust.

Stanford International Bank offers the following advantages:

- ♦ Depositor security
- ♦ Higher interest rates on deposits
- ♦ Secure electronic account access
- ♦ Ancillary services
- ♦ Five-star personal service
- ♦ Innovative products

S T A N F O R D I N T E R N A T I O N A L B A N K L T D .

DEPOSITOR SECURITY

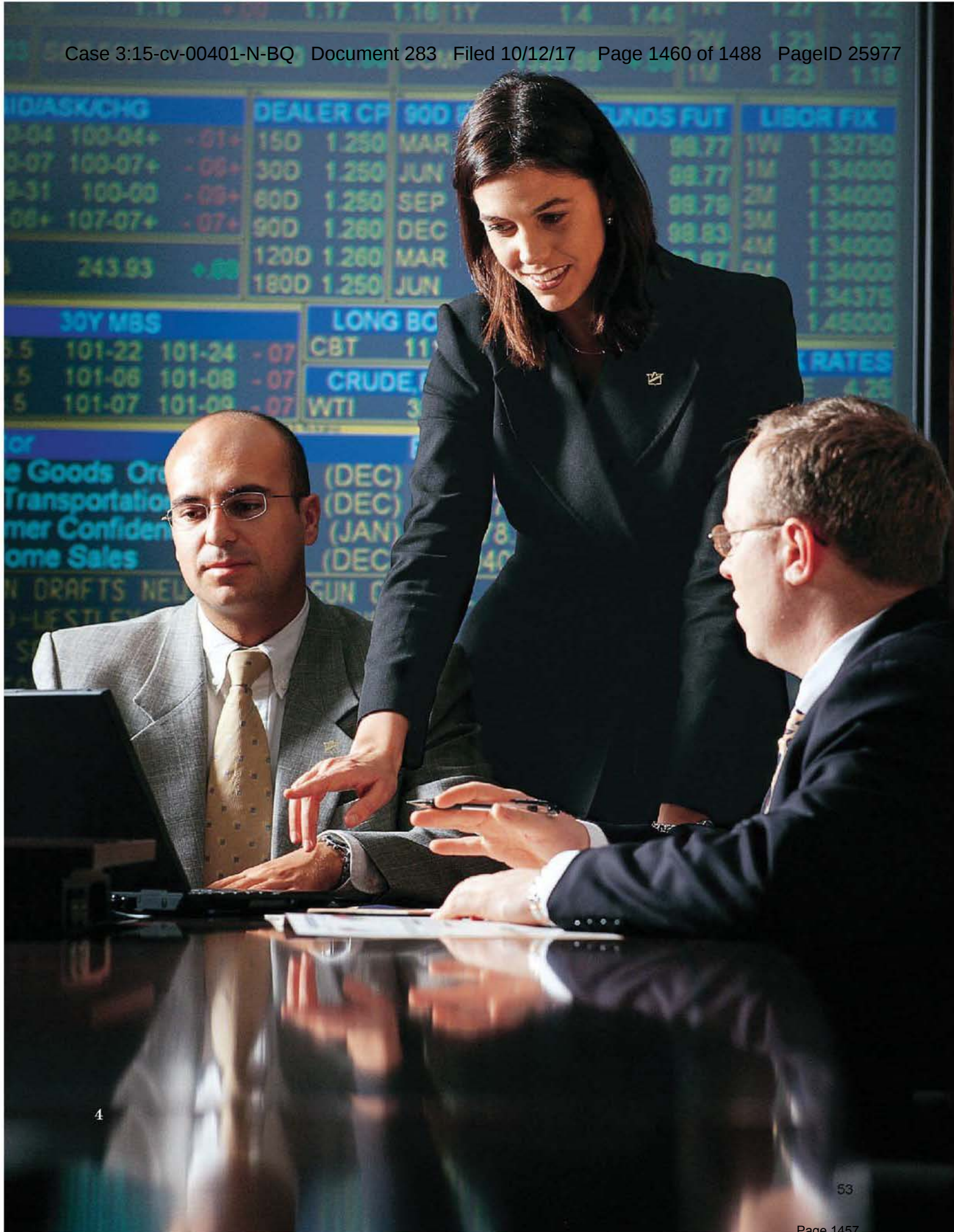
Our investment philosophy is anchored in time-proven conservative criteria, promoting stability in our certificate of deposit products. Our prudent approach and methodology translate into deposit security for our customers.

Key components of Stanford International Bank's investment criteria include:

Liquidity. We focus on maintaining the highest degree of liquidity as a protective factor for our depositors. The Bank's assets are invested in a well-diversified portfolio of highly marketable securities issued by stable governments, strong multinational companies and major international banks.

Investment Time Horizons. By continuously matching investment time horizons against terms of deposits we are able to ensure adequate liquidity to meet all customers' requirements.





S T A N F O R D I N T E R N A T I O N A L B A N K L T D .

Global Investment Strategy.* Stanford International Bank's global investment strategy minimizes exposure to any one regional market by broadly distributing our investments across many geographic areas.

No Credit Risk.** Stanford International Bank does not expose its customers to the risks associated with commercial loans. Our only form of lending is done on a cash-secured basis solely to existing customers.

Insurance. Stanford International Bank maintains a comprehensive insurance program with the following coverages:

- A depository insolvency policy insuring funds held in correspondent financial institutions
- A bankers' blanket bond
- A directors' and officers' liability policy

Minimization of Currency and Market Risk.* While the values of international investments can be affected by changes in currency rates and market risk, we minimize these risks by adhering to our investment philosophy.

* Investing in securities issued by international governments and corporations involves considerations and risks not typically associated with investing in obligations issued by the U.S. Government and U.S. corporations. The values of international investments can be affected by changes in currency rates or exchange control regulations, application of international tax laws, changes in governmental administration or economic or monetary policy, or changed circumstances in dealings between nations. Forces of supply and demand on the foreign exchange markets determine international currency change rates. These forces are themselves affected by the international balance of payments and other economic and financial conditions, government intervention, speculation and other factors. Moreover, foreign currency exchange rates may be affected by the regulatory control of the exchanges in which the currencies trade. Investments in foreign markets can be affected by factors such as expropriation, confiscation, taxation, lack of uniform accounting and auditing standards, and potential difficulties in enforcing contractual obligations and investment policies, and may be affected by extended settlement periods.

** Conservation of principal and interest rates on the CD deposits are dependent upon returns in our investment portfolios. Depending upon the climate in global investment markets, we utilize various investment strategies for the Bank's portfolios, which may include fixed income, equities and currencies. The returns on the Index-Linked CD will also be affected by the Market Index you choose. If the returns on the Bank's portfolios negatively affect our financial condition, then the same could negatively impact return of principal and interest on the CD.



*"Stanford International
Bank's global investment
strategy minimizes
exposure to any one
regional market..."*

S T A N F O R D I N T E R N A T I O N A L B A N K L T D .

HIGHER INTEREST RATES ON DEPOSITS

Stanford International Bank pays higher interest rates to depositors for the following reasons:

Consistent Profitability. Stanford International Bank has been consistently profitable since inception. Rather than pay dividends to shareholders on earnings, our business model was designed to use these resources to enhance interest rates to depositors.

Global Investments.* Diversified global investments, not loans, are the primary source of Bank earnings. Interest rates paid to depositors are based on reasonable investment return expectations and are reviewed quarterly by the board of directors.

Low Overhead. We minimize operational costs and streamline administrative processes by staying true to our core competency—private banking. The Bank also benefits through operational synergies already in place within the Stanford Financial Group.

"Interest rates paid to depositors are based on reasonable investment return expectations..."

* Investing in securities issued by international governments and corporations involves considerations and risks not typically associated with investing in obligations issued by the U.S. Government and U.S. corporations. The values of international investments can be affected by changes in currency rates or exchange control regulations, application of international tax laws, changes in governmental administration or economic or monetary policy, or changed circumstances in dealings between nations. Forces of supply and demand on the foreign exchange markets determine international currency exchange rates. These forces are themselves affected by the international balance of payments and other economic and financial conditions, government intervention, speculation and other factors. Moreover, foreign currency exchange rates may be affected by the regulatory control of the exchanges in which the currencies trade. Investments in foreign markets can be affected by factors such as expropriation, confiscation, taxation, lack of uniform accounting and auditing standards, and potential difficulties in enforcing contractual obligations and investment policies, and may be affected by extended settlement periods.

S T A N F O R D I N T E R N A T I O N A L B A N K L T D .

Zero-Tax Jurisdiction. Our domicile does not tax earnings. This results in more available profit for reinvestment and the enhancement of depositor yields.

No Loan Losses.* By making only cash-secured loans to its existing customers, the Bank eliminates credit risks and the negative impact on earnings due to loan losses.

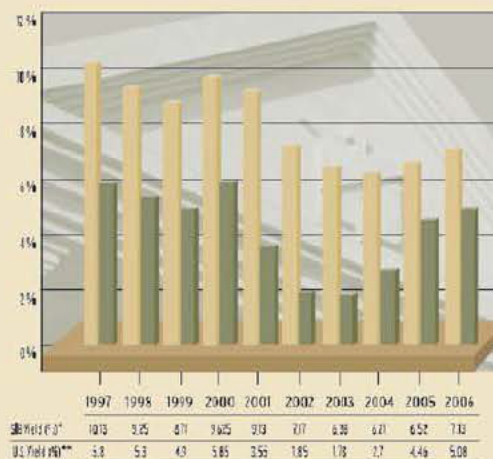
Greater Investable Assets. More than 90% of the Bank's own equity position supplements investable assets, improving our income-producing capabilities.

* Conservation of principal and interest rate on the CD deposits are dependent upon returns in our investment portfolio. Depending upon the climate in global investment markets, we utilize various investment strategies for the Bank's portfolios, which may include fixed income, equities and currencies. The returns on the Index-Linked CD will also be affected by the Market Index you choose. If the returns on the Bank's portfolios negatively affect our financial condition, then the same could negatively impact return of principal and interest on the CD.



S T A N F O R D I N T E R N A T I O N A L B A N K L T D .

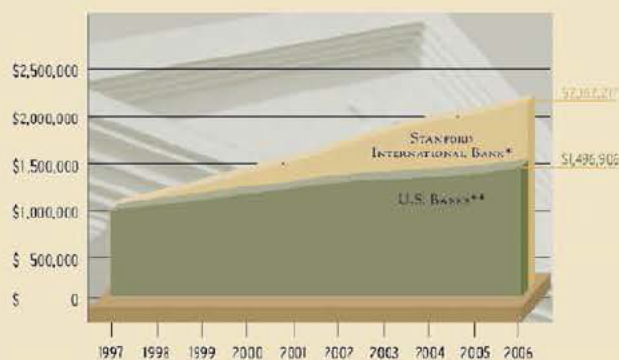
INTEREST RATES 1997 - 2006



Source: Bloomberg L.P.

*Over the past decade,**Stanford International Bank**CDs have outperformed**U.S. bank CDs by an**average of 3.9%*

PERFORMANCE 1997 - 2006



The above graphics are based on a \$1,000,000 deposit invested for 12 months and renewed annually. The information herein has been obtained from sources we believe to be reliable, but we do not offer guarantees as to its accuracy or completeness. Past performance is not a guarantee of future results. All information is subject to change without notice.

* Stanford International Bank Limited CDs are not FDIC-Insured and are not subject to regulation or oversight of any agency of the U.S. government, nor are they subject to any restrictions on how portfolios are invested.

** U.S. Bank CDs are FDIC-Insured and are subject to regulation by an agency of the U.S. government.

S T A N F O R D I N T E R N A T I O N A L B A N K L T D .

SECURE ELECTRONIC ACCOUNT ACCESS

Stanford International Bank offers customers access to their account information 24 hours a day, 365 days a year through our private, password-protected website. We continue to work toward making customer access easier, while maintaining the optimum level of privacy and security.

Our customer-only site will always utilize the most advanced firewall software and encryption technologies available in the financial services industry. This helps ensure the privacy upon which Stanford International Bank has built its reputation. We invite both existing and prospective customers to visit our public website stanfordinternationalbank.com.



ANCILLARY SERVICES

Our high-performance accounts and respect for customer privacy are supplemented by a range of ancillary services available to depositors. These include hold-mail and automatic bill paying, available upon request.

The Bank also issues some of the world's most respected payment instruments: American Express® Gold Card®, Visa® Gold Card and Gold MasterCard®.

*"... access to account
information 24 hours
a day, 365 days a year ..."*

* Offered only to non-U.S. residents.

S T A N F O R D I N T E R N A T I O N A L B A N K L T D.


FIVE-STAR PERSONAL SERVICE

Our Bank was established with a personal service perspective from the very beginning. Individualized attention and a true commitment to depositor needs are standard operating procedure at Stanford International Bank.

Integrity defines our environment, and a firm adherence to an elevated code of values is built into our customer service initiatives. Our private wealth managers speak your language, understand your concerns and discreetly execute your instructions.

Your Stanford private wealth manager can help you diversify into a range of wealth management strategies through our affiliation with the Stanford Financial Group. Expert planning is available in brokerage and investment advisory services, trust administration and insurance.

We invite you to contact us by calling (268) 480-3700.



*"Your Stanford private
wealth manager can help
you diversify into a range
of wealth management
strategies..."*

STANFORD INTERNATIONAL BANK LTD.

INNOVATIVE PRODUCTS

ACCOUNT ⁽¹⁾	CURRENCY	WITHDRAWALS	ADDITIONAL DEPOSITS	KEY BENEFITS
FIXED CDTM (2-60) <i>fixed-rate term deposit</i> 3 months 6 months 12 months 18 months 24 months 36 months 48 months 60 months	U.S. dollars Euros Other international currencies	None allowed. Interest accumulates and is paid upon maturity ⁽¹⁾ Interest may be withdrawn ⁽⁶⁾	None allowed	Attractive CD rates If base rate goes up, eligible balances ⁽⁷⁾ receive the higher rate If base rate goes down, clients receive the original base rate until maturity Interest compounded daily Automatic rollover
FLEX CDTM (2-60) <i>fixed-rate term deposit</i> 3 months 6 months 12 months 18 months 24 months 36 months 48 months 60 months	U.S. dollars Euros Other international currencies	Up to 25% of principal with 5 banking days' notice, with a maximum of 4 withdrawals per calendar year ⁽⁸⁾	Allowed (minimum amount required)	Attractive CD rates with added level of flexibility If base rate goes up, eligible balances ⁽⁷⁾ receive the higher rate If base rate goes down, clients receive the original base rate until maturity Interest compounded daily Automatic rollover
INDEX-LINKED CDTM (3-5) 3 years 4 years 5 years	U.S. dollars only	Not allowed for the first 12 months, thereafter, withdrawals allowed subject to penalties ⁽⁹⁾	None allowed	Fixed attractive minimum return on investment ⁽¹⁰⁾ High growth potential ⁽¹⁰⁾ Preservation of capital
PERFORMANCESM <i>adjustable-rate open-term account</i>	U.S. dollars Euros Other international currencies	Any amount Requires 15 calendar days' notice	Any amount, at any time	Adjustable rate of return with easy access to funds Interest compounded daily
PREMIUMSM <i>adjustable-rate open-term account</i>	U.S. dollars only	Any amount Requires 15 calendar days' notice	Any amount, at any time	Adjustable rate of return with easy access to funds Offers yields equivalent to the performance of selected U.S. Treasury bills and notes Interest compounded daily
EXPRESSSM <i>adjustable market-rate open-term account (offered as a supplementary account to Stanford International Bank clients)</i>	U.S. dollars Euros Other international currencies	Any amount Within 24 hours of notification during regular banking days	Any amount, at any time	24-hour access Market-rate interest on qualifying balances ⁽¹⁰⁾ Interest compounded daily

(1) This information should not be considered an offer. Please contact your Stanford International Bank representative for current account terms and conditions.

(2) For the U.S. Accredited Investor Program, a minimum opening balance of \$50,000 is required.

(3) These CD deposits are subject to restrictions on transferability and resale and, in the U.S., may not be transferred or resold except as permitted under the Securities Act of 1933, as amended, and the applicable state securities laws, pursuant to registration or exemption therefrom. Investors should be aware that they will be required to bear the financial risks of this investment for an indefinite period of time.

(4) For the U.S. Accredited Investor Program, early withdrawal penalties can range from one to three month's interest, depending on the term of the CD. For the FlexCD, penalties will be assessed on withdrawals greater than 25%.

(5) For the U.S. Accredited Investor Program, the redemption price is the current market value of the investment index calculation less a penalty of 10%.

(6) Minimum balance required.

(7) For the U.S. Accredited Investor Program, eligibility is based on a minimum balance of \$250,000.

(8) Interest is paid only at maturity, but may be subject to income taxes in the year it was earned but not received, depending on the tax laws in your jurisdiction.

(9) Returns will be affected by the Market Index you choose and its volatility.

(10) Or currency equivalent.

Stanford International Bank Limited ("SIB") is a private financial institution chartered under the laws of Antigua and Barbuda whose deposits are not covered by deposit insurance protection provided by the U.S. Federal Deposit Insurance Corporation.

SIB's products are ordinary bank deposit obligations and are not securities under U.S. federal or any state law. Therefore, they are not subject to the reporting requirements of any jurisdiction outside of Antigua and Barbuda, nor are they covered by the investor protection or securities insurance laws of any jurisdiction such as the U.S. Securities Investor Protection Insurance Corporation or the bonding requirements thereunder. There is no guarantee investors will receive interest distributions or the return of their principal.

Stanford Group Company may offer SIB CDs to its clients and receive a referral fee from SIB. Referral fees paid do not reduce the principal amount of any CD deposits or any interest earned thereon. Investors who are residents of the U.S. must be accredited investors and may receive this material only when preceded or accompanied by the Disclosure Statement for SIB's U.S. Accredited Investor Certificate of Deposit Program which fully discloses the potential benefits and risks of the investment.



Stanford International Bank Ltd.
A member of the Stanford Financial Group.

Stanford Group Company
Member FINRA and a member of the Stanford Financial Group.



Stanford International Bank Ltd.
No. 11 Pavilion Drive • St. John's, Antigua, West Indies
Tel. 208.480.3700 • Fax 268.480.3737

Stanford Group Company
Member FINRA
5050 Westheimer • Houston, Texas 77056
713.964.8300

stanfordfinancialgroup.com

Members of the Stanford Financial Group.

APPENDIX P

From: Espy, Tom [TEspy@StanfordEagle.com]
Sent: Sunday, July 27, 2008 6:17 PM
To: Tonya Dokken; Brian Kaufman
Subject: FW: SIBL Notice / Comunicado de SIBL

FYI, Tom

Thomas P Espy
Managing Director
Stanford Group Company
1700 Lincoln St. # 3000
Denver, CO, 80203
303-378-1988

From: SIBTrainingCenter
Sent: Friday, July 25, 2008 12:17 PM
To: Cespedes, Monica A.; Financial Advisors Caribbean; Financial Advisors Europe; Financial Advisors Latin America; Financial Advisors North America; Gonzalez, Scarlett; Khouly, Maya; Rocha, Nancy; Rodriguez-Tolentino, Juan; Roman, Jennifer; Tonarelli, Oreste; Belizaire, Patricia; Davis, Sonia; Harris, Kevin; Jacobs, Beverly; Lindsay, Joycelyn; Matthew, Eloise; Persaud, Bhanoo; Roberts, Ditchie; Rodriguez, Pedro; Sheppard, Lornette
Subject: SIBL Notice / Comunicado de SIBL

On behalf of the Chairman and the Board of Directors of the Stanford International Bank, I am extremely pleased to inform you that the Bank has sustained the largest half year growth in its history.

In the midst of turbulent world economic conditions, falling markets and unending news of collapsing financial institutions, Stanford International Bank Ltd has reached total of \$8.1 billion in assets as of June 30, 2008. The \$1 billion increase over the past six months represent a 14.8% increase in total assets and met our most optimistic expectations. Additionally, more than 4,000 new accounts have been opened during that period, totaling a growth of \$989 million, another milestone for Stanford International Bank. The commitment of the shareholder to our bank's growth and continued stability was evidenced by an injection of \$35 million in capital in February 2008. Our earnings for the first six months of the year totaled \$16.2 million. Looking forward to the second half of 2008, we remain confident and optimistic that we will achieve our financial targets.

This record setting six month period serves as a testament to the visionary business strategy of our Chairman and Board of Directors and the phenomenal expertise and professionalism of the Stanford International Bank team. Our motto of "hard work, clear vision, and value for the client" is alive and well at the SIB. As we strive for world-class performance across every aspect of our operations, I remain optimistic about the continued success of our business during the rest of the year and beyond and look forward to meeting the new challenges ahead.

Please find attached SIBL's mid year Statement of Condition, which is also available on the bank's Internet page and on our Intranet. The SIBL Quarterly Update as of June 30, 2008 will be available very soon.

En nombre del Presidente y de la Junta Directiva de Stanford International Bank, me complace enormemente informarles que el banco ha alcanzado el crecimiento más grande semestral de su historia.

En medio de una turbulenta situación económica mundial, desplome de mercados e interminables noticias de instituciones financieras en dificultades, Stanford International Bank Ltd ha alcanzado un total de \$8.1 mil millones de activos a junio 30 de 2008. El incremento de \$1,000 millones en los últimos 6 meses representa un aumento del 14.8% de activos totales, el cual alcanzó nuestras expectativas mas optimistas. Adicionalmente, durante este periodo se abrieron más de 4,000 cuentas nuevas, dando un total de \$989 millones en crecimiento, lo cual representa aun otro triunfo para Stanford International Bank. El compromiso de los accionistas en cuanto al crecimiento y a la continua estabilidad del Banco, fue confirmado con la inyección de \$ 35 millones de capital en Febrero del 2008. Nuestras utilidades durante el primer semestre del año han alcanzado \$ 16.2 millones. Mirando hacia el segundo semestre del 2008, nos sentimos confiados y optimistas de poder alcanzar nuestras metas financieras.

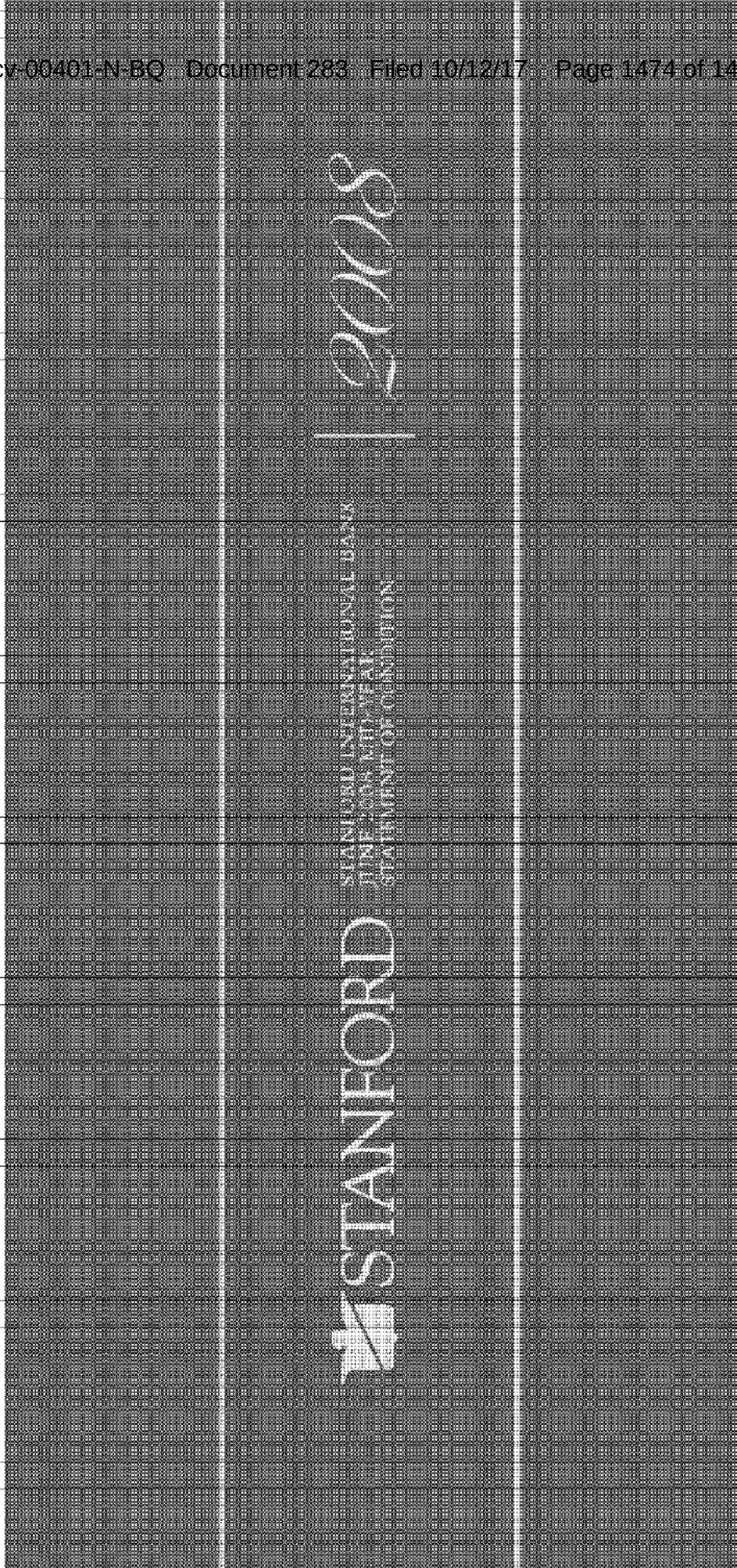
Este récord semestral sirve como testamento de la visionaria estrategia de negocios de nuestro Presidente y de la Junta Directiva, además de la extraordinaria experiencia y profesionalismo del grupo de Stanford International Bank. Nuestro lema de "dedicación al trabajo, visión clara y aprecio hacia el cliente" está vivo y rebosante en SIB. En nuestro afán por un desempeño de primera clase en todos los aspectos

Sírvanse encontrar en el anexo el Balance de SIBL a medio año, el cual también está disponible en la página de Internet del banco y en nuestro Intranet. El Reporte de Actualización Trimestral de SIBL a Junio 30 de 2008 estará disponible muy pronto.

Regards,

JRT

Any information or data provided in this message has been obtained from sources we believe to be reliable, but we do not guarantee its accuracy or completeness. Such information reflects current market conditions, is subject to change without notice and should not be relied upon for tax purposes. Any transactional details are provided at your request and do not supersede your normal trade confirmations or monthly statements. Any product recommended is subject to prior sale. Stanford Group Company, its affiliated companies, and/or officers, directors or employees, may at times have a position in or make a market in any security described above, and/or may act as an investment banker or advisor to any company referenced. Stanford Group Company reserves the right to monitor and review the content of all e-mail communications sent and/or received by its employees. Stanford Group Company does not accept time-sensitive transactional messages, including orders to buy and sell securities, via e-mail. This information is intended to be confidential and solely for the use of Stanford Group Company and those persons or entities to whom it is directed. It is not to be reproduced, retransmitted, or in any other manner redistributed. If you received this message in error, please contact Stanford Group Company immediately at 800-958-0009.



2008

STANFORD INTERNATIONAL BANK
LINE 2008 MID YEAR
STATEMENT OF CONDITION

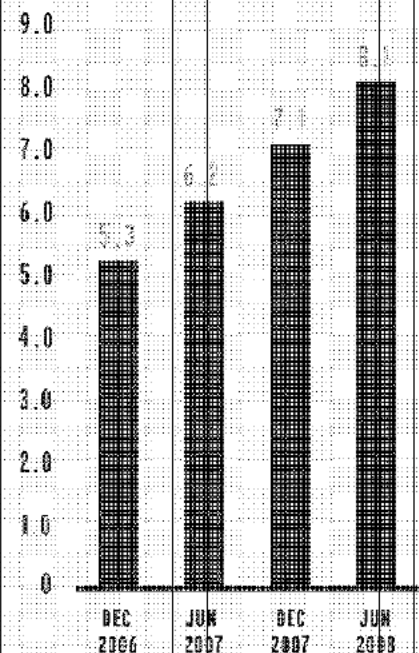
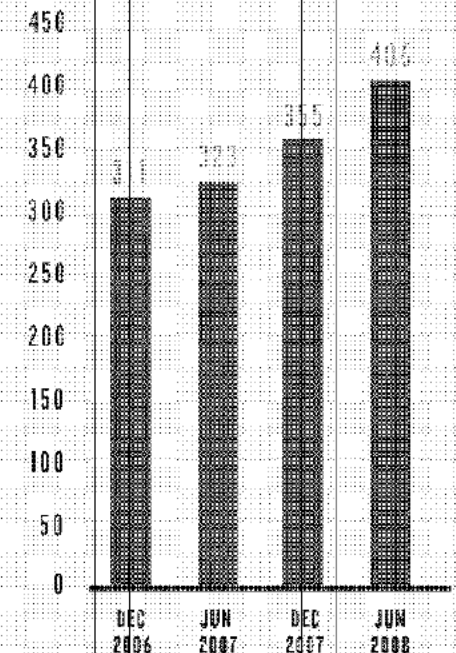
STANFORD

HARD WORK. CLEAR VISION. VALUE FOR THE CLIENT.®

FINANCIAL HIGHLIGHTS

(Expressed in United States dollars)

	June 2006	December 2007
ASSETS		
Cash and Balances with Other Banks	\$ 778,850,728	\$ 627,822,483
Financial Assets at Fair Value	7,223,734,023	6,347,631,574
Loans and Advances to Clients	88,709,460	69,732,601
Property and Equipment	7,220,418	6,910,778
Other Assets	4,356,137	5,785,277
TOTAL ASSETS (see Figure 1)	\$ 15,102,870,966	\$ 13,007,882,713
LIABILITIES AND SHAREHOLDER'S EQUITY		
Deposits from Clients	7,678,769,572	6,689,964,303
Other Liabilities and Provisions	18,024,944	12,966,649
TOTAL LIABILITIES	\$ 7,696,794,516	\$ 6,702,930,952
Share Capital	10,000,000	10,000,000
Share Premium	138,500,000	103,500,000
Retained Earnings	257,576,250	241,421,761
TOTAL SHAREHOLDER'S EQUITY (see Figure 2)	\$ 440,076,250	\$ 354,921,761
TOTAL LIABILITIES AND SHAREHOLDER'S EQUITY	\$ 8,146,870,766	\$ 7,057,852,713

Figure 1. TOTAL ASSETS
Dollars (in billions)**Figure 2. SHAREHOLDER'S EQUITY**
Dollars (in millions)

STANFORD

STANFORD INTERNATIONAL BANK LTD

No. 11 Pavilion Drive, P.O. Box 3306 | St. John's Antigua, Antigua and Barbuda | Phone: +868 462-3702 | STANFORDINTERNATIONAL.COM

A MEMBER OF THE STANFORD FINANCIAL GROUP

EXECUTIVE OFFICES

Sir Allen Stanford
Chairman of the Board

James A. Stanford
Chairman Emeritus

Sir Courtney N. Blackman, Ph.D.
Vice Chairman

James M. Davis
Chief Financial Officer

O. Y. Goswick
Treasurer

Kenneth G. Allen, O.C.
Secretary and Treasurer

Robert S. Winter
Insurance

GENERAL MANAGER

Juan Rodriguez Toentino
President

Miguel Pacheco
Vice President

Eugene Kipper
Vice President

Beverly M. Jacobs
Vice President

Blanco P. Persaud, ACCA
Accounting Manager

COMPLIANCE

Pedro E. Rodriguez, CRCM
Vice President
Senior Compliance Officer

BANK REPRESENTATIVE OFFICE

Alain Lapointe
Senior Vice President
1800 McGill College Ave., 10th Floor
Montreal, Quebec, Canada

AUDITORS

C. A. S. Hewlett & Co. Ltd
Chartered Accountants
St. John's Street, St. John's, Antigua

REGULATORS AND ADVISOR

Bowen, Miellette & Britt, Inc.
1111 North Loop West, Suite 400
PO Box 922022
Houston, Texas 77038

Willis Limited
10 Trinity Square
London EC2P 32X
United Kingdom

BARRISTERS AND SOLICITORS

Hanton & Williams
Barclays Financial Center
111 Brickell Avenue, Suite 1500
Miami, Florida 33131

APPENDIX Q

AGENDA

**Annual Meeting of the
Investment Committee
Of
Mango Five Family, Inc.**

Date: December 5, 2008
Location: Las Vegas, Nevada
Time: Following Meeting of Board of Directors

1. Approval of minutes of October 1, 2008 meeting.
2. Report on diversification of Liberty and affiliates.
3. Report on pay-down of debt.
4. Report on investment of diversification proceeds.
5. Report on Stanford Certificates of Deposit.
6. Report on material receipts and disbursements.
7. Report on Fortrust.
8. Report on significant fiduciary activities from October 1, 2008 through November 30, 2008 (the "Reporting Period").
9. Report on ranch operations.
10. Miscellaneous items.
11. Adjournment.

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**MINUTES OF THE ANNUAL MEETING
OF THE INVESTMENT COMMITTEE
OF MANGO FIVE FAMILY, INC.
December 5, 2008**

The annual meeting Investment Committee for all of the trusts administered by Mango Five Family, Inc., a Nevada corporation (the "Corporation") was held in Las Vegas, Nevada, commencing at 9:30 a.m. Pacific Standard Time ("PST") on December 5, 2008. Present and in person were member, Gary Magness, and advisors, Raymond L. Sutton, Jr. and Steven Knudson; Tonya Dokken, Chief Financial Officer of Magness Investment Group, LLC; and Thomas Espy, investment advisor also attended. Participating by telephone was Mr. Robert E. Armstrong, President of the Corporation and an advisor, who participated from the Corporation's offices located at 100 West Liberty Street, 10th Floor, Reno, Nevada.

There being a quorum present, the meeting was called to order at 9:30 a.m. PST.

1. Approval of Minutes of October 1, 2008. Motion to approve the minutes of the regular meeting of the Investment Committee of October 1, 2008 was seconded and approved.

2. Report on Diversification of Liberty and Affiliates. Mr. Magness reported that there had been no significant sales of the stock of Liberty Media and its affiliates, since October 1, 2008 due to the severe decline in prices.

3. Report on Pay Down of Debt. Ms. Dokken reported that due to the lack of sales of the stock of Liberty Media and its affiliates, there had been no significant pay down of debt attributable to GMIT and Mr. Magness' personal debt.

4. Report of Stanford Certificates of Deposit. Mr. Espy reported that he had approached Stanford International Bank ("Bank") after the October 1st meeting regarding the redemption of Mr. Magness' and GMIT's certificate of deposits and that redemption would not be possible at this time. Mr. Magness inquired how his risk could be reduced to the exposure of these certificates of deposit. Mr. Espy responded that after the Bank advised that redemption would not be possible at this time, GMIT borrowed from the Bank against these certificates in the approximate amount of 80% of their face value or \$63,000,000. Mr. Magness indicated that he would continue working with Mr. Espy to investigate on how to reduce GMIT's risk from these certificates of deposit.

Mr. Espy then gave a report on his due diligence of Stanford International Bank. He reported that Mr. Magness had received \$25 million of interest after the October 1st meeting in addition to the borrowing against the certificates. He reported that the Bank

received a significant infusion of capital in the amount of \$480 million from Mr. Allan Stanford in November.

5. Report on Other Investments. Mr. Espy reported that he had recommended to Mr. Magness other investments for GMIT's purchase, and that GMIT had invested in Quinlan and Axiom – Asia Funds. Both of these investments required additional capital contributions. Ms. Dokken reported that GMIT was almost to capacity with its borrowings, and that obtaining additional capital for these investments might not be possible. Ms. Dokken also reported that GMIT would soon receive a capital call for the Magness Ranches in the approximate amount of \$1.4 million. Mr. Magness requested that Mr. Sutton and Ms. Dokken participate on a telephone conference with Mr. Espy and representatives of Quinlan to see if that capital call could be deferred and to present him with his best options. Mr. Espy indicated that the call would be set for the following week.

6. Report on Asset Allocation. Mr. Espy reported that at the present time, it was impractical to recommend an asset allocation plan until the GMIT debt had been further paid down. He indicated that the only practical way to prepare an asset allocation model would be to diversify the concentration of Liberty and its affiliates stock; but given current market conditions, that was not acceptable to Mr. Magness. Mr. Sutton and Ms. Dokken recommended at this point that there be no further reinvestments of proceeds of any liquidation until GMIT's debt was fully paid off. This recommendation was agreed to by all.

7. Report on Fortrust. Mr. Knudson gave an optimistic report on Fortrust's operations. Mr. Knudson reported that Phase IV had obtained its certificate of occupancy at the end of August, but at the present time, none of the space had been leased. He indicated that approximately 8,442 square feet had been leased or 20% of the available space under the first four phases. He believed the operational cash flow would be close to break even by the end of 2009, but that Fortrust would lose approximately \$2 million for 2008. No additional capital will be necessary in 2009 if the revenue growth continues at the 2008 pace. Mr. Knudson's optimism is based upon reports that he has received that demand for the data centers will grow by 14%, with space increasing only by 6% in 2009. He is confident that by the end of 2010, all of Fortrust's space will be leased.

Mr. Magness and Mr. Espy discussed the possibility of taking a line of credit against the data center, but Ms. Dokken and Mr. Knudson reported that that would be impractical, given the property is not producing any positive income. Mr. Magness requested that Mr. Knudson do a market assessment to determine the salability of the data center on an "as is" basis, and to give a report at the next meeting.


8. Report on Ranch Operations. Ms. Dokken gave a report on the ranch operations for the reporting period of October 1, 2008 through today's meeting. She indicated that the ranch will make a capital call upon its members of \$2.8 million, and

that GMTI will owe \$1.4 million of that. She indicated that the ranch continues to cut costs and that she does not anticipate asking Renee Magness and her children's trusts for additional capital.

There being no further business, the meeting of the Investment Committee was adjourned at 11:30 a.m. PST.

Respectfully submitted,

4.9.07
Date


Raymond L. Sutton, Jr., Secretary

102702731.3

APPENDIX R

From: Tonya Dokken [tonya@magness.net]
Sent: Thursday, February 12, 2009 8:09 PM
To: Espy, Tom
Subject: FW: (BN) Billionaire Stanford's Firm Said to Face U.S. Probe of CD Sales

FYI, Ryan just forwarded this to me. Bloomberg is writing about SIB now...

Tonya Dokken

Chief Financial Officer

Magness Investment Group

1200 17th Street, Suite 660

Denver, Colorado 80202

(303) 572-6400 (phone)

(303) 572-6464 (fax)

email - tonya@magness.net

From: Bell, Ryan (PBIG Dallas, Tx) [mailto:ryan_bell@ml.com]
Sent: Thursday, February 12, 2009 12:58 PM
To: Tonya Dokken
Subject: Fw: (BN) Billionaire Stanford's Firm Said to Face U.S. Probe of CD Sales

Just got to Mexico and my hotel, but saw this email and wanted to forward. I think we all had this fear unfortunately. I hope it wasn't a ponzi scheme and hopefully the money is somewhere.

Sent from my BlackBerry Wireless Handheld

----- Original Message -----

From: sands.chipman@barclayswealth.com <sands.chipman@barclayswealth.com>
To: Bell, Ryan (PBIG Dallas, Tx)
Sent: Thu Feb 12 13:58:05 2009
Subject: Fw: (BN) Billionaire Stanford's Firm Said to Face U.S. Probe of CD Sales

Forward to Mike... We just talked about this.

----- Original Message -----

From: Zulick, Richard: Barclays Wealth
To: Griffin, William: Barclays Wealth; Chipman, Sands: Barclays Wealth
Cc: Connally, Mark M: Barclays Wealth
Sent: Thu Feb 12 13:53:20 2009
Subject: FW: (BN) Billionaire Stanford's Firm Said to Face U.S. Probe of CD Sales

Plaintiff's
Exhibit

109

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Uh Oh

-----Original Message-----

From: RICHARD L ZULICK, BARCLAYS CAPITAL INC [mailto:rzulick@bloomberg.net]
Sent: Thursday, February 12, 2009 12:53 PM
To: Zulick, Richard: Barclays Wealth
Subject: (BN) Billionaire Stanford's Firm Said to Face U.S. Probe of CD Sales

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Billionaire Stanford's Firm Said to Face U.S. Probe of CD Sales
2009-02-12 05:01:00.24 GMT

By Alison Fitzgerald

Feb. 12 (Bloomberg) -- Stanford Group Co., a Houston-based investment firm led by billionaire R. Allen Stanford, is under investigation by U.S. securities regulators over sales of certificates of deposit in its affiliated offshore bank and the consistent, above-average returns those investments pay.

Investigators from the Financial Industry Regulatory Authority visited six Stanford Group offices last month, downloaded information from computer hard drives and looked through files, people familiar with the events said. Two former Stanford financial advisers were questioned last month by the Securities and Exchange Commission, according to the people, who declined to be identified because they didn't want to put their current jobs at risk.

The agencies are investigating Stanford's sales of certificates of deposit issued by its Antigua-based affiliate, Stanford International Bank Ltd., according to the former employees. The agency has asked former employees about the bank's stated returns on investment, between 10.3 and 15.1 percent every year from 1995 until last year, according to documents and annual reports on the bank's Web site. SIB has \$8.5 billion in assets and 30,000 clients, according to the site.

"That type of return ignores the business cycle," said L. Burke Files, principal of Financial Examinations & Evaluations Inc., a Tempe, Arizona-based financial investigation firm. "His returns fall outside the bell curve of probability."

'Routine Exam'

The visits by Finra and the SEC were part of a "routine exam," said Brian Bertsch, a spokesman for Stanford. Finra spokesman Herb Perone said the agency doesn't confirm or deny investigations.

Kevin Edmundson, an SEC investigator in Ft. Worth, Texas, said, "I can't even confirm the existence of the investigation." The agency issued subpoenas last July to at least two former Stanford employees.

The SEC has stepped up probes after being accused of failing to heed warnings that

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Bernard Madoff's investment returns were too good to be true. Madoff was arrested Dec. 11 after allegedly telling his sons that his business was a \$50 billion Ponzi scheme. The SEC has since announced unrelated lawsuits against at least seven money managers for allegedly inflating profits or siphoning off client money.

Finra in November 2007 fined Stanford Group Co. \$20,000 for failing to adequately state the risks involved in the CD investments and to disclose that an affiliation between the broker-dealer and the bank could pose a conflict of interest.

Stanford consented to the sanctions without admitting or denying wrongdoing, according to a file on the Finra web site.

The Stanford Financial companies, including Stanford Group, Stanford International Bank and Stanford Trust, were founded by R. Allen Stanford, who is their chairman. The Texas native was listed by Forbes Magazine as the 605th-richest man in the world with an estimated net worth of \$2 billion.

No Madoff Exposure

Allen Stanford is a citizen of the U.S. and of Antigua & Barbuda after being naturalized in that country 10 years ago, according to a biography on the company's Web site. He was knighted by the Antigua government in 2006 and now uses the title "Sir." Stanford Group Co. has 19 offices in the U.S. and more than \$43 billion under management or advisement, according to its Web site.

Stanford International Bank said in a Dec. 17 letter to clients, posted on its Web site, that it didn't have any exposure to Madoff's investment funds.

Stanford's one-year, \$100,000 CD paid 4.5 percent annual yield as of Nov. 28, according to a posting the Web site yesterday.

A one-year, \$10,000 CD purchased at JPMorgan Chase & Co. would earn 1.5 percent, according to its consumer banking Web site.

Stanford International Bank describes the CDs in its disclosure statement as traditional bank deposits. The bank says it doesn't lend proceeds and instead invests in a mix of equities, metals, currencies and derivatives, according to its Web site and CD disclosures.

Returns 'Incredible'

"Those returns are just incredible, in the sense that I don't believe them," said Alex Dalmady, an independent financial analyst based in Weston, Florida, who has examined Stanford's investment strategy and published an article in VenEconomia Monthly, published by Caracas-based economic consulting firm VenEconomia.

The company "obviously disagrees with his conclusions," Stanford's Bertsch said.

"The most important opinion for us is that of our clients, some of whom have been with us for over 20 years and have maintained their confidence in Stanford International Bank through the years," he said in an e-mail response to questions.

Dalmady and Files say the financial information published by Stanford International Bank makes them doubt its authenticity.

'Subtle Clues'

"There are just a whole lot of subtle clues at Stanford that when you look at it tell you to run away," Files said in an interview. He cited the consistent investment returns and the use of an Antigua-based auditor.

Stanford International Bank lists C.A.S. Hewlett & Co., based in St. John's, Antigua, as its auditor. The firm reports offices in Antigua and London on its web site. No one answered the telephone yesterday at either number.

"If you have \$8 billion in assets, and you're taking deposits from all over the world, you would really like to have someone signing those balance sheets that someone has heard of,"

Dalmady said.

Four former investment advisers interviewed by Bloomberg said the Stanford Group offers

incentives for those who steer their clients' money into the bank CDs. The company paid a 1 percent fee to the advisers, held contests and offered trips and bonuses of up to \$125,000, based on how much money went into Stanford International Bank, according to the former employees and e-mails provided to Bloomberg News. Those incentives weren't paid for investments in other securities, they said.

'Carte Blanche'

The bank said in a December report that it has a loss of \$110 million last year. The S&P 500 index fell 39 percent last year.

The bank discloses broad investment categories in marketing materials and on its web site. In 2006, it reported that 57.4 percent of its portfolio was in equities, 21.9 percent in Treasuries and corporate bonds, 13 percent in metals and 7 percent in alternatives, according to a disclosure statement related to the CD offering. The rest was in cash, mostly dollars.

"They have carte blanche to invest in anything they want," said Scott MacKillop, president and chief compliance officer at Frontier Asset Management in Denver, who reviewed the CD offering documents. "You don't really know what your risk is, and you're getting a limited return."

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--With reporting by Michael Forsythe in Washington, David Scheer in New York and Steven Bodzin in Caracas. Editors: Robert Simison, William Glasgall

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